

ATTACHMENT "A"

**FARMERS INSURANCE EXCHANGE
FIRST AMENDED OSC**

(Additional violations for period August 7, 2002 – August 6, 2004)

1. Regarding: CARLA CHAMBERS CSB-5569037
Claim Number: 21148712
Insured: ZOLA KRIOUKOVA

On 11/27/01, a complaint was filed against Respondent alleging undue delays in the processing of this claim due to lack of timely responses to communications.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections 2695.5 (b) and 2695.5 (a).

Section 2695.5 (b) requires a licensee to respond to a claimant's communication that reasonably suggests that a response is expected, within 15 calendar days after receipt of that communication. The claimant sent a communication to Respondent on 7/24/01. A response to this communication was due no later than 8/8/01. A response was not made until 10/16/01. The complainant on 8/13/01 sent another communication. A response to this communication was due no later than 8/28/01. The response was not made until 10/16/01. Therefore, there were two violations of this regulation that occurred.

In reference to Section 2695.5 (a), this Department sent a letter to Respondent on 6/12/02. A response was considered late on 7/8/02. The response was never received. Therefore, a violation of this regulation has occurred.

On October 7, 2002, the Department notified Respondent of the violations noted above.

2. Regarding: LETICIA SOUSA CSB-5579842
Policy Number: 29-141955827
Claim Number: 70-147969
Insured: DEREK NAKAGAWA

On 1/3/02, a complaint was filed against Respondent alleging that there was an undue delay in the handling of the claim and that Respondent had not made a reasonable offer of settlement regarding this claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) (California Code of Regulations, Title 10, Chapter 5, Subchapters 4.5 and 7.5), specifically Sections 2695.5(e)(1), 2695.5(e)(2) 2632.13 and 2695.7 (c)(1).

Section 2695.5(e) (1) requires an insurer to immediately, but in no more than 15 days from receipt of the claim, acknowledge receipt of the claim to the claimant. Contact with the claimant was due no later than 3/24/01 but was not. Therefore, a violation of this section has occurred.

Section 2695.5(e)(2) requires an insurer to immediately, but in no more than 15 calendar days upon receiving notice of claim, provide to the claimant necessary forms, instructions and reasonable assistance, including but not limited to, specifying the information the claimant must provide for proof of claim. Providing any necessary forms, instructions or reasonable assistance should have occurred no later than 3/24/02, but was not. Therefore, a violation of this section has occurred.

An investigation by the Department found Respondent to be in noncompliance with California Code of Regulations, Title 10, Chapter 5, Subchapter 4.7, specifically Section 2632.13 (e) (2).

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Section 2632.13(e)(2) provides that an insurer shall not make a determination that a driver was principally at-fault for an accident unless the insurer first makes an investigation of the accident and provides the insured written notice of the investigation. The written notice must specify:

1. Any determination that insured was principally at-fault;
2. The percentage of fault ascribed to the insured;
3. The percentage of fault ascribed to any other driver of the accident;
4. The basis for determination that the driver was principally at-fault; and
5. The insured's right to seek reconsideration of the determination of fault.

At-fault determination notifications that simply state that an investigation was conducted and the insured has been determined to be more than 51 percent at-fault do not satisfy the requirements of Section 2632.13. The 3/23/01 at-fault determination letter that Respondent sent to the insured did not comply with these requirements. Therefore, a violation of this section has occurred.

Section 2695.7(c)(1) requires every insurer to provide the claimant with written notice every 30 calendar days if more time is required than what is allotted in subsection 2695.7(b) to determine whether a claim should be accepted or denied. Respondent received proof of loss on 11/20/01, in the form of records for the claimant's medical treatment. The written notice shall specify any additional information the insurer requires in order to make a determination and state any continuing reasons for the insurer's inability to make a determination. A written notice was due to be sent to the claimant, but was not, by 12/28/01. Therefore, a violation of this section has occurred.

On June 20, 2002, the Department notified Respondent of the violations noted above.

3. Regarding: TRACY SMITH CSB-5583488

1 Claim Number: 25-100430
2 Insured: HAYDEE ROSALES

3
4 On February 20, 2002, a complaint was filed against Respondent alleging that a claim was
5 unfairly denied.

6
7 An investigation by the Department found Respondent to be in noncompliance with California
8 Insurance Code Section 880.

9
10 In reference to the California Insurance Code section 880, please see attached Bulletin No. 69-7
11 which requires that each insurance Respondent do business in its own name. Respondent sent a
12 letter on December 20, 2001 and another letter on December 28, 2001 (attached) which did not
13 identify the full legal name of Respondent which underwrote the insurance on this particular
14 claim.

15
16 On October 8, 2002, the Department notified Respondent of the violations noted above.

17
18 4. Regarding: FRANCES ROTH CSB-5604643
19 Policy Number: 11704622
20 Claim Number: 52117751

21
22 On February 15, 2002, a complaint was filed against Respondent alleging a claim was improperly
23 denied.

24
25 An investigation by the Department found Respondent to be in noncompliance with California
26 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
27 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
28 2695.3(a), 2695.3(b)(1) and 2695.5(a).

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1 In reference to Section 2695.3(a), this Department requested a complete copy of the claim file for
2 review on February 15, 2002. A copy of the activity log notes was received on March 29, 2002;
3 however, copies of all correspondence and other related documents were not included.

4 Respondent also indicated it was unable to locate the medical claim file. Therefore, a violation
5 of this regulation has occurred.

6
7 In reference to Section 2695.3(b) (1), the insurer is required to maintain claim data that are
8 accessible, legible and retrievable for examination. By Respondent's own admission in a letter
9 dated March 28, 2002, it was unable to locate the medical claim file. Therefore, a violation of
10 this regulation has occurred.

11
12 In reference to Section 2695.5(a), this Department sent an inquiry to the insurance Respondent on
13 February 15, 2002 requesting a response and a copy of the complete claim file. A response dated
14 March 1, 2002 was received on March 4, 2002; however, a copy of the claim file was not
15 included. Therefore, a violation of this regulation has occurred.

16
17 On October 30, 2002, the Department notified Respondent of the violations noted above.

18
19 5. Regarding: WILLIAM WARE CSB-5607015
20 Policy Number: SL26260
21 Claim Number: 114L26260
22 Insured: HEATHER MACCLELLAND

23 On 2/19/02, a complaint was filed against Respondent alleging that there has been an undue delay
24 in the handling of this claim that Respondent had not made a reasonable offer of settlement
25 regarding this claim and that Respondent would not send status letters which advised the
26 complainant what information Respondent needed in order to resolve this claim.

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1 An investigation by the Department found Respondent to be in noncompliance with California
2 Insurance Code Section 790.03(h) (1).

3
4 Section 790.03(h) (1) requires an insurer not to misrepresent to the claimants any pertinent facts
5 or insurance policy provisions relating to any coverage at issue. Jim Rodriguez, Branch Claim
6 Manager at Respondent sent a letter dated 2/5/02 to the claimant that stated "I am unable to
7 respond to the request to provide you with a letter stating what we are investigating. The
8 Department of Insurance Regulations prevents us from doing this. We have no duty to provide
9 Respondent with an explanation of what we are investigating. We are requesting the cooperation.
10 If the claim is to proceed, the cooperation will be required." Section 2695.7(c)(1) requires every
11 insurer to provide the claimant with written notice every 30 calendar days if more time is required
12 than what is allowed in subsection 2695.7(b) to determine whether a claim should be accepted or
13 denied. The written notice shall specify any additional information the insurer requires in order to
14 make a determination and state any continuing reasons for the insurer's inability to make a
15 determination.

16
17 Section 2695.7(c) (2) states that nothing contained in Section 2695.7 (c) (1) shall require an
18 insurer to disclose any information that could reasonably be expected to alert a claimant to the
19 fact that the claim is being investigated as a possible fraudulent claim. Although this later section
20 states that an insurer does not have to reveal information that may alert a claimant that a claim
21 may be suspected as being fraudulent, it does not relieve an insurance Respondent from informing
22 the claimant what additional information or investigation is required in order to conclude a claim.
23 In fact, Mr. Rodriguez from Respondent made a statement in his 2/5/02 letter to the claimant that
24 was confusing and vague. Mr. Rodriguez 2/5/02 letter to the claimant stated "We are requesting
25 the cooperation. If the claim is to proceed, the cooperation will be required." It was not clarified
26 what cooperation Respondent was seeking from the claimant. For these reasons stated, a violation
27 of Section 790.03(h) (1) has occurred.

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On August 8, 2002, the Department notified Respondent of the violations noted above.

6. Regarding: CLAIRE HINES CSB-5619671

Claim Number: H3-120-109

Insured: VIRGINIA ANN MILLS

On 3/1/02, a complaint was filed against Respondent alleging that no reasonable offer of settlement had been made on this claim, that there had been an undue delay in the handling of this claim and that there was a lack of communication from Respondent to the complainant regarding the status of this claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.3(a).

Section 790.03(h) (3) requires an insurer to adopt and implement standards for the prompt investigation and processing of claims. This claim occurred on 12/14/01 and Respondent was notified of this claim on 12/19/01. The 5/16/02 letter from Respondent to our department advised the claim representative did not contact the complainant until 1/2/02, which is 14 days after the date Respondent received this claim. Because Respondent could not find the claim file, there was no further documented communication to the complainant until a letter was sent by Respondent on 3/10/02. Respondent did not agree to accept liability on this loss until Respondent confirmed it in a 5/16/02 letter to our department. Due to the delay in the handling and investigation of this claim, a violation of this section has occurred.

Section 2695.3(a) requires every licensee's claim files to include all documents, notes and work papers (including copies of all correspondence) which reasonably pertain to each claim in such detail that pertinent events and the dates of the events can be reconstructed and the licensee's

actions pertaining the claim can be determined. Respondent could not find the claim file in order to provide our department with a copy. Therefore, a violation of this section has occurred.

On August 16, 2002, the Department notified Respondent of the violations noted above.

7. Regarding: INSURED: NEIL GILLIS CSB-5667989
COMPLAINANT: MARY JANICKI
Claim Number: B9-229591

On 5/28/02, a complaint was filed against Respondent alleging undue delay in adjusting claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(c)(1).

Section 2695.7(c) (1) requires an insurer to provide notice to a claimant whenever the insurer is unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this case, proof of claim was received by Respondent on 7/20/01 in the form of a Traffic Collision Report. The claim was required to be accepted or denied or notice sent by 8/29/01. The notice was not sent to the claimant by the required timeframe. Therefore, a violation of this regulation has occurred.

On September 27, 2002, the Department notified Respondent of the violations noted above.

8. Regarding: JAMES LINCOLN CSB-5668267
Policy Number: F-90244-18-29

On 4/24/02, a complaint was filed against Respondent alleging that Respondent separated a water damage claim into two separate water damage claims in error.

1 An investigation by the Department found Respondent to be in noncompliance with California
2 Insurance Code Section 790.03(h)(5) and the Fair Claims Settlement Practices Regulations
3 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
4 2695.5(a).

5
6 Section 790.03(h) (5) requires an insurer, in good faith, to effectuate prompt, fair, and equitable
7 settlements of claims in which liability has become reasonably clear. Respondent advised the
8 insured that there were two separate water damage claims because two separate pipe leaks
9 occurred at approximately the same time at the insured location. Our department asked
10 Respondent to ask the plumber that repaired the plumbing leaks if it was possible that the leaks
11 had occurred at the same time. If this were the case, then the loss would be considered one
12 occurrence and one policy deductible would apply. The response from the plumber that repaired
13 the pipe leaks was "My assessment is that both leaks were occurring at the same time..." Since it
14 is the plumber's expert opinion that the pipe leaks occurred at the same time, it is our position that
15 these two claims should have been considered as one claim and the policy deductible only applied
16 once. Therefore, a violation of this section has occurred.

17
18 Section 2695.5(a) requires a licensee, upon receiving any written or oral inquiry from the
19 Department of Insurance concerning a claim, to immediately, but in no event more than twenty-
20 one (21) calendar days of receipt of that inquiry, furnish the Department of Insurance with a
21 complete written response based on the facts as then known by licensee. A complete written
22 response addresses all issues raised by the Department of Insurance in its inquiry and includes
23 copies of any documentation and claim files requested. Our department requested that
24 Respondent refer this file, including the statements from the plumber regarding when the pipe
25 leaks occurred to the legal department for review and to provide a legal opinion for the claims
26 department to review about whether this water damage claim should be considered as one
27 occurrence or as two. Respondent refused to refer this matter to the legal department for review
28

1 and therefore, did not provide a complete response to all issues raised by our department.
2 Therefore, a violation of this section has occurred.
3

4 On September 13, 2002, the Department notified Respondent of the violations noted above.
5

6 9. Regarding: JESUS PEREZ CSB-5700791
7 Policy Number: 96 16004-42-57

8 On 5-29-02, a complaint was filed against Respondent alleging an improper denial of the above
9 captioned claim.
10

11 An investigation by the Department found Respondent to be in noncompliance with California
12 Insurance Code Sections 790.03(h)(2) and 790.03(h)(3), as well as Section 790.03(h) and the Fair
13 Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5,
14 Subchapter 7.5), specifically Section 2695.5(a).
15

16 California Insurance Code Section 790.03(h) (2) requires an insurer to acknowledge and act
17 promptly upon communications. In this case, the Department sent three (3) letters to Respondent,
18 dated 6-3-02, 7-18-02 and 9-4-02, respectively. Each letter requested a complete written response
19 to our inquiry (specifically, that we be provided with a copy of the reevaluation letter to the
20 complainant). However, Respondent did not provide this Department with a complete response
21 until 10-4-02, when we received a copy of Respondent's reevaluation correspondence to the
22 complainant (dated 10-3-02). Thus, we received the written response approximately four (4)
23 months after we first requested the response to this complaint. Therefore, one violation of this
24 statute has occurred.
25

26 California Insurance Code Section 790.03(h) (3) states that a licensee is not in compliance with
27 this statute if they fail to adopt and implement reasonable standards for the prompt investigation
28

1 and processing of claims arising under insurance policies. In this case, Respondent acknowledged
2 via the correspondence to this Department dated 10-3-02 that "the agent erred in his handling of
3 this situation," and that "we do believe the complaint is justified." Additionally, Respondent did
4 not provide a written response to this complaint as required until approximately four months after
5 the Department first sent Respondent correspondence requesting the response. Therefore, one
6 violation of this statute has occurred.

7
8 In reference to Section 2695.5(a), the Department sent a letter to Respondent on 6-3-02 and a
9 complete response was considered late on 6-30-02. No response was ever received. A follow-up
10 letter was sent to Respondent dated 7-18-02 and a complete response was considered late on 8-
11 14-02. No response was ever received. Another follow-up letter was sent to Respondent on 9-4-
12 02 and a complete response was considered late on 10-1-02. Although we received
13 correspondence from Respondent (dated 9-30-02) on 10-2-02 via e-mail (from Jennifer Milbauer,
14 Secretary, Marketing Support, 805-583-7113), the response was not complete, as we were not
15 provided with a copy of the reevaluation letter to complainant. The complete response was not
16 received in our office until 10-4-02, when we received a faxed copy of the 10-3-02 reevaluation
17 letter to the complainant. Therefore, three violations of this regulation have occurred.

18
19 On October 7, 2002, the Department notified Respondent of the violations noted above.

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21
22 10. Regarding: TSESLAV PETLINSKY CSB-5716292
23 Policy Number: 95 14821 95 10
Claim Number: 555458084

24 On November 27, 2002, a complaint was filed against Respondent alleging unsatisfactory
25 settlement offer.

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1 An investigation by the Department found Respondent to be in noncompliance with California
2 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
3 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
4 2695.5(a).

5
6 In reference to Section 2695.5(a), this Department sent a letter to Respondent on December 4,
7 2002 and a response was considered late on December 30, 2002. A response was received from
8 Respondent on December 11, 2002, but the response did not include the requested information.
9 We then sent a follow-up letter to Respondent dated December 31, 2002. This response was
10 considered late on January 26, 2003. The response was not received in our office until January
11 21, 2003. Therefore, a violation of this regulation has occurred.

12
13 On January 21, 2003, the Department notified Respondent of the violations noted above.

14
15 11. Regarding: SCOTT CATTANACH CSB-5752653
16 Policy Number: 30-143456147
17 Claim Number: 37138488

18 On 6/12/02, a complaint was filed against Respondent alleging an undue delay in the
19 reimbursement of the deductible.

20
21 An investigation by the Department found Respondent to be in noncompliance with California
22 Insurance Code Section 790.03(h) (3) in that our inquiry prompted additional investigation and
23 the deductible was returned.

24
25 On August 28, 2002, the Department notified Respondent of the violations noted above.

26 12. Regarding: PAT IMBRENDA CSB-5780272
27 Claim Number: 37140512
28 Insured: KAREN VERSAKO

1 On 7/2/02, a complaint was filed against Respondent alleging that Respondent had unduly
2 delayed the handling of this claim and that Respondent had not made a reasonable offer of
3 settlement regarding this claim.

4
5 An investigation by the Department found Respondent to be in noncompliance with California
6 Code of Regulations, Title 10, Chapter 5, Subchapters 4.7 and 7.5 and the Fair Claims Settlement
7 Practices Regulations, specifically Sections 2632.13 (e) (2), 2695.5(e) (1) and 2695.5(e) (2).

8
9 Section 2632.13(e)(2) (please see copy of attached Bulletin No. 2002-6) provides that an insurer
10 shall not make a determination that a driver was principally at-fault for an accident unless the
11 insurer first makes an investigation of the accident and provides the insured written notice of the
12 investigation. The written notice must specify:

- 13
14 1. Any determination that insured was principally at-fault;
15 2. The percentage of fault ascribed to the insured;
16 3. The percentage of fault ascribed to any other driver of the accident;
17 4. The basis for determination that the driver was principally at-fault; and
18 5. The insured's right to seek reconsideration of the determination of fault.

19
20 At-fault determination notifications that simply state that an investigation was conducted and the
21 insured has been determined to be more than 51 percent at-fault do not satisfy the requirements of
22 Section 2632.13. The 6/26/02 at-fault determination letter that Respondent sent to the insured did
23 not comply with these requirements. Therefore, a violation of this section has occurred.

24
25 Section 2695.5(e) (1) requires an insurer to immediately, but in no more than 15 days from
26 receipt of the claim, acknowledge receipt of the claim to the claimant. Respondent received notice
27 of this claim on 6/26/02. An acknowledgement of Respondent's receipt of this claim such as
28 speaking with the claimant or sending an acknowledgement letter to the claimant was due but was

1 not sent by 6/21/02. Phone messages left by Respondent for the claimant do not meet the
2 requirements of this section. Therefore, a violation of this section has occurred.

3
4 Section 2695.5(e)(2) requires an insurer to immediately , but in no more than 15 calendar days
5 upon receiving notice of claim, provide to the claimant necessary forms, instructions and
6 reasonable assistance, including but not limited to, specifying the information the claimant must
7 provide for proof of claim. Respondent received notice of this claim on 6/26/02. Any necessary
8 forms, instructions and/or any reasonable assistance from Respondent to the claimant was due but
9 was not provided to the claimant by 6/21/02. Phone messages left by Respondent for the claimant
10 do not meet the requirements of this section. Therefore, a violation of this section has occurred.

11
12 On July 31, 2002, the Department notified Respondent of the violations noted above.

13
14 13. Regarding: JENNIFER TURNER CSB-5789753
15 Policy Number: H3 114050
16 Insured: LALONDE

17 On July 2, 2002, a complaint was filed against Respondent alleging undue delay in processing of
18 a claim.

19
20 An investigation by the Department found Respondent to be in noncompliance with California
21 Insurance Code Section 790.03(h) (3).

22
23 Section 790.03(h) (3) requires insurance companies to adopt and implement standards for the
24 prompt investigation and processing of claims. Here, Farmers issued payment to the
25 complainant's insurance Respondent approximately ten weeks after the Arbitration decision.
26 Therefore, a violation of this code has occurred.

27
28 On August 19, 2002, the Department notified Respondent of the violations noted above.

14. Regarding: VIRGINIA SUNG CSB-5793732

Policy Number: 96 15652 2969
Claim Number: 07-137884

On June 27, 2002, a complaint was filed against Respondent alleging undue delay in processing the claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections 2695.7(b), 2695.7(c)(1) and 2695.7(h).

Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from "proof of claim". Here, proof of claim was received by Respondent on June 2, 2002 in the form of the proof of loss form. This claim was required to be accepted or denied, or notice sent per 2695.7(c)(I), no later than July 12, 2002. No notice was ever sent to the claimant advising of the delay. Therefore, a violation of this regulation has occurred.

Section 2695.7(c) (1) requires an insurer to provide continuing notice every 30 calendar days. Here, the continuing notice was required no later than August 11, 2002. No continuing notice was ever sent to the claimant. Therefore, a violation of this regulation has occurred.

Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days from acceptance of claim. Here, the claim should have been accepted on June 2, 2002 when of the proof of loss form was received. Payment of this claim was required by July 2, 2002. The final draft was not issued until August 21, 2002. Therefore, a violation of this regulation has occurred.

On October 29, 2002, the Department notified Respondent of the violations noted above.

15. Regarding: ROBIN BORRE CSB-5798974

1 Policy Number: 95 14875-79-25

2 On July 05, 2002, a complaint was filed against Respondent alleging undue delay in processing a
3 claim.

4
5 An investigation by the Department found Respondent to be in noncompliance with California
6 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
7 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
8 2695.5(d).

9
10 In this instance, the insured mailed the claim to the agent on April 27, 2002. However, no action
11 was taken on the loss until Respondent received the complaint inquiry, and the claim was then
12 settled on July 29, 2002. Section 2695.5(d) requires a licensee to immediately forward a notice of
13 claim to the insurer. Therefore, a violation of this Section has occurred.

14 On August 30, 2002, the Department notified Respondent of the violations noted above.
15

16
17 16. Regarding: JOAN DANGEL CSB-5799596
18 Claim Number: B9243558
19 Insured: NIKOLAY ABRAMOV

20 On 7/8/02, a complaint was filed against Respondent alleging undue delays in the processing of
21 this claim.

22
23 An investigation by the Department found Respondent to be in noncompliance with California
24 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
25 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
26 2695.7(c)(1) and 2695.7(h).

1 Section 2695.7(c) (1) requires an insurer to provide notice to a claimant whenever the insurer is
2 unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this
3 case, proof of claim was received by Respondent on 4/17/02 in the form of the estimate of repairs
4 dated 3/14/02. This claim was verbally accepted on 4/17/02 as evidenced by the claim file log
5 note. The claim was required to be accepted or denied (or notice sent) by 5/27/02. No notice was
6 ever sent to the claimant advising of the delay. Also, continuing notice was required every 30
7 calendar days. Here, the continuing notice was required no later than 6/26/02. No continuing
8 notice was ever sent to the claimant. Therefore, two (2) violations of this regulation have
9 occurred.

10
11 Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days
12 from acceptance of claim. Here, the claim was accepted on 4/17/02 as evidenced by the claim file
13 log note. Payment of this claim was required by 5/17/02. The claim was not paid until 7/24/02.
14 Therefore, a violation of this regulation has occurred.

15
16 On October 21, 2002, the Department notified Respondent of the violations noted above.

17
18 17. Regarding: GAIL REMY CSB-5804192
19 Policy Number: 97144473-31-44
20 Claim Number: 70178357

21 On July 16, 2002, a complaint was filed against Respondent alleging undue delay in processing of
22 a claim.

23
24 An investigation by the Department found Respondent to be in noncompliance with California
25 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
26 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
27 2695.5(a) and 2695.3(a).
28

1 In reference to Section 2695.5(a), this Department sent a letter to Respondent on October 30,
2 2002 and a response was considered late on November 25, 2002. The response was not received
3 in our office until December 16, 2002. Therefore, a violation of this regulation has occurred.

4
5 Section 2695.3(a) requires the claim files to contain all documents, notes and work papers. Here,
6 the file provided did not include the estimate as well as other items. Therefore, a violation of this
7 regulation has occurred.

8
9 On July 11, 2002, the Department notified Respondent of the violations noted above.

10
11 18. Regarding: M/M JAMES STEELE CSB-5810232
12 Policy Number: 30 14856 81 17
13 Claim Number: 371 323 66

14 On July 29, 2002, a complaint was filed against Respondent alleging that the repairs to the
15 complainant's vehicle were not satisfactorily completed.

16
17 An investigation by the Department found Respondent to be in noncompliance with California
18 Insurance Code Section 1874.87, 790.03(h) and the Fair Claims Settlement Practices Regulations
19 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
20 2695.3(a), 2695.8(e)(2), and 2695.8(i).

21
22 Respondent responded to this Department on August 15, 2002, with a correspondence that
23 included what was described as a confidential copy of the claim file. However, the only
24 documentation included was a copy of the material damage report from the body shop and a copy
25 of the original report of loss/ assignment to claims representative. Section 2695.3(a) confirms
26 that every licensee's claim files shall be subject to examination by the Commissioner or by his or
27 her duly appointed designees. These files shall contain all documents, notes, and work papers

28 ///

1 (including copies of any/all correspondence) which reasonably pertain to each claim in such detail
2 that pertinent events and the dates of the events can be reconstructed and the licensee's actions
3 can be determined. Based on the documentation that was provided, the standards described under
4 this code were not met and therefore a violation of this regulation has occurred.

5
6 Additionally, California Insurance Code 1874.82 states that each insurer is required to provide
7 each insured with an Auto Body Repair Consumer Bill of Rights either at the time of application
8 for an automobile insurance policy or following an accident that is reported to the insurer. The
9 insured's have informed this Department that no such document has ever been received by them
10 at either time. Therefore, a violation of this statute has occurred.

11
12 Under CIC Section 1874.87, the content of the Bill of Rights at minimum would have included
13 information about all of the following:

- 14
15 (1) A consumer's right to select an auto body repair shop for auto body damage covered by
16 the policy and that the insurer may not require this work to be done at a particular auto body
17 repair shop.
- 18 (2) The consumer's right to be informed about the auto body repairs made with new original
19 equipment crash parts, new after market crash parts, and used crash parts.
- 20 (3) The consumer's right to be informed about coverage for towing services, and for a
21 replacement rental vehicle while a damaged vehicle is being repaired.

22
23 Had this information been available to the insured or at least referenced by any of Respondent's
24 representatives during the claim process, a violation of Section 2695.8(e) (2) may have been
25 avoided. Instead, it appears that a violation did occur when the agent directed the insured to the
26 preferred shop (Vreeland Cadillac, Inc.), and discounted their concerns regarding their desire to
27 use a Ford factory authorized facility. Section 2695.8(e) (2) states that no insurer shall direct,
28 suggest or recommend that an automobile be repaired at a specific repair shop; unless,

1 (A) such referral is expressly requested by the claimant; or,
2 (B) the claimant has been informed in writing of the right to select the repair facility; and,
3 (C) the insurer that elects to repair a vehicle directs, suggests or recommends that a
4 specific repair shop be used, shall cause the damaged vehicle to be restored to its condition prior
5 to the loss at no cost to the claimant other than stated in the policy or as otherwise allowed by
6 these regulations.

7
8 Lastly, Section 2695.8(i) states that every insurer shall provide written notification to a first party
9 claimant as to whether the insurer intends to pursue subrogation of the claim. Where an insurer
10 elects not to pursue subrogation or discontinues pursuit of subrogation it shall include in its
11 notification a statement that any recovery to be pursued is the responsibility of the first party
12 claimant. No such notice is found in any of the documentation provided and therefore a violation
13 of this regulation did occur.

14
15 On November 13, 2002, the Department notified Respondent of the violations noted above.

16
17 19. Regarding: TAMA WILLIS CSB-5818754
18 Policy Number: 29148703675
19 Claim Number: 72121953
20 Insured: PATRICIA PEYTON

21 On July 12, 2002, a complaint was filed against Respondent alleging undue delay in processing of
22 a claim.

23
24 An investigation by the Department found Respondent to be in noncompliance with California
25 Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations
26 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
27 2695.5(b).

1 Section 790.03(h) (3) requires insurance companies to adopt and implement standards for the
2 prompt investigation and processing of claims. Here, Farmers caused unnecessary delays because
3 of confusion concerning ownership of the vehicle. Before our involvement, Farmers should have
4 contacted the California DMV to determine ownership. Therefore, a violation of this code has
5 occurred.

6
7 Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably
8 suggests that a response is expected, immediately, but in no event more than 15 calendar days
9 after receipt of that communication. The claimant sent a communication to Respondent on
10 September 16, 2002. A response to this communication was due no later than October 1, 2002.
11 The response to the communication was not sent until October 18, 2002. Therefore, a violation of
12 this regulation has occurred.

13
14 On January 17, 2003, the Department notified Respondent of the violations noted above.

15
16
17 20. Regarding: SHARLA CAMP (C/O DAVID PETTNER) CSB-5824914
18 Insured: Daniel Martinez
19 Claim Number: 72-126512

20 On July 24, 2002, a complaint was filed against Respondent alleging an undue delay in the
21 processing of the above-captioned claim.

22 An investigation by the Department found Respondent to be in noncompliance with California
23 Insurance Code Section 790.03(h), 1871.2, and the Fair Claims Settlement Practices Regulations
24 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
25 2695.7(h).

26
27 California Insurance Code Section 1871.2 requires an insurer to furnish a form to any person
28

1 giving notice to the insurer or making a claim against it by reason of an accident, injury, death, or
2 other noticed or claimed loss, which shall display in comparative prominence with other content,
3 the following statement: "Any person who knowingly presents false or fraudulent claim for the
4 payment of a loss is guilty of a crime and may be subject to fines and confinement in state
5 prison." This statement shall be preceded by the words: "For the protection California law
6 requires the following to appear on this form" or other explanatory words of similar meaning.
7 No such language was ever included in any correspondence sent to the complainant and therefore,
8 a violation of this statute did occur.

9
10 Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days
11 from acceptance of claim. Here, Respondent received the property damage proof of claim on
12 November 12, 2001. The claim was accepted on December 20, 2001, as evidenced by the "at-
13 fault" letter sent to the insured on the same date. The property damage payment of this claim was
14 then required to be paid accordingly on or before January 22, 2002. However, the claim was not
15 paid until June 10, 2002. Therefore, a violation of this regulation has occurred.

16
17 On August 26, 2002, the Department notified Respondent of the violations noted above.

18
19 21. Regarding: TED BLALOCK CSB-5835872
20 Claim Number: G19622288

21 On August 5, 2002, a complaint was filed against Respondent alleging undue delay in processing
22 of a claim.

23
24 An investigation by the Department found Respondent to be in noncompliance with California
25 Insurance Code Section 790.03(h) (3).

26
27 Section 790.03(h) (3) requires insurance companies to adopt and implement standards for the
28

prompt investigation and processing of claims. Here, Farmers inadvertently closed its file prior to requesting the police report. As a result, no reasonable effort was made to collect back the complainant's deductible. Therefore, a violation of this statute has occurred.

On October 10, 2002, the Department notified Respondent of the violations noted above.

22. Regarding: ALLYSON LYLE BRADLEY CSB-5840952
Policy Number: 96 152382844
Claim Number: 07135892

On July 29, 2002, a complaint was filed against Respondent alleging undue delay in the processing of a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections 2695.7(c)(1) and 2695.3(b)(2).

Insurance Code Section 790.03(h) (3) requires the insurer to adopt and implement standards for the prompt investigation and processing of claims. The records indicate a status letter was sent to the complainant on April 15, 2002 advising that additional time was needed to investigate the claim. However, the records indicate there was no activity between March 27, 2002 and June 14, 2002 and no further investigation conducted after June 14, 2002 until the complainant contacted this Department for assistance. In addition, by the insurer's own admission, incorrect information was sent in an August 8, 2002 letter addressed to the insured. The insurer agreed that the claim was handled improperly and that there was a delay in the processing of the claim. Therefore, a violation of this insurance code has occurred.

Section 2695.7(c) (1) requires an insurer to provide notice to a claimant whenever the insurer is

1 unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this
2 case, proof of claim was received by Respondent in the form of a statement signed and dated
3 April 5, 2002 from the complainant. A status letter was sent to the complainant on April 15, 2002
4 advising that additional time was needed to investigate the claim. A continuing notice was
5 required every 30 calendar days. Here, no continuing notices were sent to the claimant after April
6 15, 2002. Therefore, three violations of this regulation have occurred.

7
8 Section 2695.3(b) (2) requires insurers to record the date when documents are received. The
9 records do not indicate the date when the complainant's statement was received. Therefore, a
10 violation of this regulation has occurred.

11
12 On November 6, 2002, the Department notified Respondent of the violations noted above.

13
14 23. Regarding: HONG NGUYEN CSB-5847194

15
16 On July 29, 2002, a complaint was filed against Respondent alleging that a claim has been
17 improperly denied.

18
19 An investigation by the Department found Respondent to be in noncompliance with California
20 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
21 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
22 2695.5(a).

23
24 In reference to Section 2695.5(a), this Department sent a letter to Respondent on July 30, 2002
25 and a response was considered late on August 25, 2002. The response was not received in our
26 office until September 12, 2002. Therefore, a violation of this regulation has occurred.

27
28 On November 21, 2002, the Department notified Respondent of the violations noted above.

24. Regarding: HELEN LEE CSB-5856092

Policy Number: 907202425

Claim Number: 61-166617

On 8-2-02, a complaint was filed against Respondent alleging undue delay in processing a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) (3) and Section 2057.

Section 790.03(h) (3) requires an insurer to adopt and implement standards for the prompt investigation and processing of claims arising under insurance policies. Documentation in the file indicated that Respondent misplaced the claims file causing unnecessary delay in the processing of the claim. Therefore, one violation of this regulation has occurred.

Per Section 2057, under a contract of fire insurance, payment to the insured shall be made within 30 days after the amount of the loss and liability of Respondent has been agreed upon or settled by the insured and Respondent in writing. If Respondent fails to pay within 30 days, the payment shall bear interest, beginning the 31st day, at the prevailing legal rate. Documentation in the file indicated Respondent agreed upon payment of the claim on 7-9-02. Payment to the claimant was due no later than 8-8-02 but was not sent until 8-16-02, which did not include interest. Therefore, one violation of this regulation has occurred.

On January 31, 2003, the Department notified Respondent of the violations noted above.

25. Regarding: LESLIE HOPE CSB-5856406

Claim Number: 21-166582

Insured: EDWARD SOLTANOVICH

On 8/02/02, a complaint was filed against Respondent alleging unfair denial of a third party claim, and failure to advise the claimant in writing of the liability decision.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(b)1.

Our review of the claim file revealed that although a 50% liability offer was made verbally on 4/30/02 and 5/08/02, this was not put in writing. Section 2695.7(b) 1 requires that every insurer that denies or rejects a third party claim in whole or in part or disputes liability or damages shall do so in writing. Therefore, a violation of this section occurred.

On August 27, 2002, the Department notified Respondent of the violations noted above.

26. Regarding: DAVID VACCARO CSB-5858353
Claim Number: A4123180
Insured: ARSENIO NATIVIDAD

On 8-16-02 a complaint was filed against Respondent alleging a portion of the claim was unfairly denied.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(g) for attempting to settle the rental reimbursement claim with an unreasonably low settlement offer.

1 The third party claimant was initially paid for 30 of 35 days rental reimbursement. There were
2 several claimants and an extensive investigation was required to be sure the coverage limits were
3 adequate for all claims. The extra five days of rental were denied because Respondent believed he
4 could have lessened the rental period by utilizing his own collision coverage. After this office
5 intervened and pointed out that the claimant should not be penalized due to the potential extent of
6 damages caused by the insured, the additional 5 days of rental were paid. This constitutes one
7 violation of 2695.7(g).

8
9 On September 19, 2002, the Department notified Respondent of the violations noted above.

10
11
12 27. Regarding: JOSE SANCHEZ CSB-5858370
13 Policy Number: 30 15190-57-27
14 Claim Number: 72133696
15 Insured: YANG MING CHIANG

16 On 8-21-02 a complaint was filed against Respondent alleging undue delay and an unfair
17 settlement offer on the claim.

18 An investigation by the Department found Respondent to be in noncompliance with California
19 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
20 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
21 2695.7(b) for failure to accept or deny liability within 40 days of receiving proof of claim. Proof
22 of claim, the adjuster's inspection, was received 4-1-02. An offer should have been made by 5-9-
23 02 or a letter sent to the claimant. A settlement offer was not sent until 6-24-02. This constitutes
24 one violation of 2695.7(b).

25
26 In addition, we find noncompliance with 2695.7(c) (1) for failing to write the claimant every 30
27 calendar days when additional time was needed to investigate the claim. Other than the 4-2-02
28

letter to acknowledge the claim, no correspondence was sent to the claimant until the offer of 6-24-02. This constitutes one violation of 2695.7(c) (1).

On September 19, 2002, the Department notified Respondent of the violations noted above.

28. Regarding: WARWICK GRANT CSB-5858535

Policy Number: 95 602275875

Claim Number: 07142212

Insured: GERALD BERG

On 1/22/03, a complaint was filed against Respondent alleging Respondent unduly delayed the handling of this claim and had not made a reasonable offer of settlement regarding this claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapters 4.7 and 7.5), specifically Sections 2632.13(e)(2), 2695.5(e)(1), 2695.5(e)(2), 2695.5(e)(3) and 2695.8(e)(2).

Section 2632.13(e)(2) provides that an insurer shall not make a determination that a driver was principally at-fault for an accident unless the insurer first makes an investigation of the accident and provides the insured written notice of the investigation. The written notice must specify:

1. Any determination that insured was principally at-fault;
2. The percentage of fault ascribed to the insured;
3. The percentage of fault ascribed to any other driver of the accident;
4. The basis for determination that the driver was principally at-fault; and
5. The insured's right to seek reconsideration of the determination of fault.

At-fault determination notifications that simply state that an investigation was conducted and the insured has been determined to be more than 51 percent at-fault do not satisfy the requirements of

1 Section 2632.13. The 11/6/02 at-fault determination letter that Respondent sent to the insured did
2 not comply with these requirements. Therefore, a violation of this section has occurred.

3
4 Section 2695.5(e) (1) requires an insurer to immediately, but in no more than 15 days from
5 receipt of the claim, acknowledge receipt of the claim to the claimant. Respondent received this
6 claim on 7/31/02 and had the claimant's name and mailing address. Contact with the claimant,
7 either by verbal discussion or in writing which acknowledged the receipt of this claim was due by
8 8/15/02, but was not completed. Therefore, a violation of this section has occurred.

9
10 Section 2695.5(e)(2) requires an insurer to immediately, but in no more than 15 calendar days
11 upon receiving notice of claim, provide to the claimant necessary forms, instructions and
12 reasonable assistance, including but not limited to, specifying the information the claimant must
13 provide for proof of claim. Respondent received this claim on 7/31/02 and had the claimant's
14 name and mailing address. Reasonable assistance, any necessary forms or instructions were due
15 to be provided to the claimant by 8/15/02, but were not. Therefore, a violation of this section has
16 occurred.

17
18 Section 2695.5(e)(3) requires an insurer to immediately, but in no more than 15 calendar days
19 upon receiving notice of claim, begin any necessary investigation of the claim. Respondent
20 received this claim on 7/31/02 and had the claimant's name and mailing address. Any necessary
21 investigation of this claim was due to be started by 8/15/02, but was not. Therefore, a violation of
22 this section has occurred.

23
24 Section 2695.8(e)(2) requires that no insurer shall direct, suggest or recommend that an
25 automobile be repaired at a specific repair shop, unless, (A) such referral is expressly requested
26 by the Regarding: or, (B) the claimant has been informed in writing of the right to select the
27 repair facility; and, (C) the insurer that elects to repair a vehicle directs, suggests or recommends
28 that a specific repair shop be used, shall cause the damaged vehicle to be restored to its condition

1 prior to the loss at no additional cost to the claimant other than as stated in the policy or as
2 otherwise allowed by these regulations. My review of this claim file did not indicate that
3 Respondent inspected the claimant's vehicle, completed a repair estimate for the claimant's
4 vehicle damage or solicited a repair estimate from the claimant. The 2/7/03 letter from Joseph
5 Wilfong at Respondent indicates that the claimant was advised by Respondent to take his vehicle
6 to one of two vehicle repair shops, but this information was not provided to the claimant in
7 writing. Therefore, a violation of this section has occurred.

8
9 On April 29, 2003, the Department notified Respondent of the violations noted above.

10
11 29. Regarding: RAYMOND RIDEAU CSB-5858998
12 Policy Number: 151199801
13 Claim Number: 59-190928

14 On 8-26-02 a complaint was filed listing Respondent, along with Infinity Insurance Respondent,
15 alleging undue delay in the processing of the above captioned claim. The complaint pertains to
16 the property damage portion of the claim.

17
18 An investigation by the Department found Respondent to be in noncompliance with California
19 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
20 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
21 2695.5(a).

22
23 In reference to Section 2695.5(a), this Department sent a letter to Respondent on 9-9-02 and a
24 complete response was considered late on 10-6-02. Although we received correspondence from
25 Respondent dated 9-13-02 (which Respondent showed was faxed to us on this same date), the
26 response was not complete, as our letter of 9-9-02 had requested that Respondent send us a copy
27 of the reevaluation letter to the complainant. The correspondence of 9-13-02 was simply
28 addressed to this Department. It was not addressed to the complainant as we had requested, nor

1 was there any indication that the complainant had been copied on the correspondence. Although
2 Mr. Bob Thomas of Respondent advised the undersigned that he did not initially send a
3 reevaluation letter to the complainant as this Department had requested, as he believed the
4 complaint was not against Respondent, a complete response as specified in our correspondence of
5 9-9-02 was still required. The complete response was not received in our office until 10-24-02,
6 when we received a copy of the reevaluation letter to the complainant, dated 10-21-02. Therefore,
7 one violation of this regulation has occurred.

8
9 On October 25, 2002, the Department notified Respondent of the violations noted above.

10
11
12 30. Regarding: Melvin Grumbach CSB-5860170
13 Policy Number: 29-14871-51-65
14 Claim Number: 25-096830
Insured: Eun Jung Kim

15 On 8/20/02, a complaint was filed against Respondent alleging that Respondent was pursuing
16 subrogation against this consumer in error and that Respondent sent this claim to a collection
17 agency in error.

18
19 An investigation by the Department found Respondent to be in noncompliance with California
20 Insurance Code Section 790.03(h) (3).

21
22 Section 790.03(h) (3) requires an insurer to adopt and implement standards for the prompt
23 investigation and processing of claims. Respondent's investigation of this alleged hit and run
24 claim made by the insured does not appear to have been adequately completed before it was sent
25 to a collection agency. The investigation consisted of a police report from a police officer, that
26 did not actually witness the alleged hit and run incident and from a statement, taken from witness
27 that could not identify the vehicle or the driver that was allegedly responsible for the insured's
28

1 damages. No judgment was rendered against the individual that Respondent had a collection
2 agency trying to collect from. Because Respondent did not conduct an adequate investigation that
3 would support the subrogation and collection activity that Respondent was pursued against this
4 individual, a violation of this section has occurred.

5
6 On September 13, 2002, the Department notified Respondent of the violations noted above.

7
8 31. Regarding: ANITA QUON CSB-5861574
9 Policy Number: 97-137549588
10 Claim Number: 70-165146

11 On 9-3-02 a complaint was filed against Respondent alleging an unfair settlement offer and undue
12 delay in processing the claim.

13
14 An investigation by the Department found Respondent to be in noncompliance with California
15 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
16 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically
17 Section 2695.7(g) for attempting to settle the total loss with an unreasonably low offer, 2695.7(h)
18 for failing to pay within 30 days of accepting a claim, 2695.7(b), for failure to accept or deny
19 liability within 40 days, and 2695.7(d), for seeking unnecessary information.

20 Following the offer of 1-4-02 the insured contacted Respondent to notify Respondent of recent
21 repairs to the vehicle. This increased the total loss offer by \$143. However, the insured contacted
22 Respondent again to advise that a number of vehicle options were left off of the calculations.
23 Once the adjuster's error was corrected an additional \$300 was added to the offer. This constitutes
24 one violation of 2695.7(g).

25
26 The Department found noncompliance with 2695.7(h) for failure to pay the tow bill within 30
27 days of receiving it. It appears that the tow bill was in the possession when the original repair
28

1 estimate of 11-17-01 was written. Due to an oversight it was not paid until 9-26-02. This
2 constitutes one violation of 2695.7(h).

3
4 We also found noncompliance with 2695.7(b) for failure to accept or deny liability or write the
5 insured within 40 days of receiving proof of claim. Proof of claim, the adjuster's estimate, was
6 received 11-17-01. Liability was accepted 1-4-02. Liability should have been accepted or denied
7 or a letter sent to the insured by 12-27-01. This constitutes one violation of 2695.7(b).

8 We also found noncompliance with 2695.7(d) for seeking unnecessary information. The letter of
9 6-18-02, incorrectly dated 6-18-01, asked for a copy of the tow bill. However, this bill was
10 already in the possession. This constitutes one violation of 2695.7(d).

11
12 On October 7, 2002, the Department notified Respondent of the violations noted above.

13
14 32. Regarding: MAY CHENG CSB-5862766
15 Policy Number: 96-12580-89-41
16 Claim Number: E8-257490

17 On August 28, 2002, a complaint was filed against Respondent alleging improper notification of
18 subrogation efforts.

19
20 An investigation by the Department found Respondent to be in noncompliance with California
21 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
22 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
23 2695.8(i).

24
25 CCR Section 2695.8(i) provides that: "Where an insurer elects not to pursue subrogation or
26 discontinues pursuit of subrogation it shall include in its notification a statement that any recovery
27 to be pursued is the responsibility of the first party." Here, no notification was provided to the
28

complainant. Therefore, a violation of this regulation has occurred.

On October 31, 2002, the Department notified Respondent of the violations noted above.

33. Regarding: JESUS NAGANA CSB-5866627
Policy Number: 109952685
Claim Number: B9-246527

On October 24, 2002, a complaint was filed against Respondent alleging that the complainant had not received notice of a delay in the settlement of the above claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(b) and 2695.7(c)(1).

Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from "proof of claim". Here, proof of claim was received by Respondent on May 16, 2002 in the form of a report of loss by Mr., Ward Donnelly. This claim was required to be accepted or denied, or notice sent per 2695.7(c) (1), no later than June 25, 2002.

The claim was not accepted until August 8, 2002 as evidenced by the letter to the complainant, therefore, a violation of this regulation has occurred.

Section 2695.7(c) (1) requires and insurer to provide notice to a claimant whenever the insurer is unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this case, proof of claim in the form of a report of loss was received by Mr. Ward Donnelly on May 16, 2002. The claim was required to be accepted or denied by June 25, 2002. No notice was sent until August 8, 2002, therefore, a violation of this regulation has occurred.

1 In compliance with California Insurance Code, Section 12921.1 we are notifying Respondent that
2 the Department has determined this complaint to be justified as defined in the California Code of
3 Regulations, Section 2694(a)(1).

4
5 On November 22, 2002, the Department notified Respondent of the violations noted above.

6
7 34. Regarding: LAURA LAMAGNA CSB-5867230
8 Policy Number: 155313657
9 Claim Number: 1001723578
10 Type of Coverage: Auto-Private Passenger
Insured: LOAN VAN NGUYEN

11 On 4-23-03 a complaint was filed against Respondent alleging an unfair settlement offer on the
12 claim.

13
14 An investigation by the Department found Respondent to be in noncompliance with California
15 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
16 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
17 2695.5(a) for failure to respond to Department of Insurance inquiries dated 5-19-03 and 6-14-03
18 within 21 days. The response was received via fax 7-29-03.

19 On July 31, 2003, the Department notified Respondent of the violations noted above.

20
21 35. Regarding: TAL WINOGRAD CSB-5868619

22 Policy Number: 159470362
23 Claim Number: 1001 7571 68

24 On 12-9-03 a complaint was filed against Respondent alleging undue delay in processing the
25 claim.

26
27 An investigation by the Department found Respondent to be in noncompliance with California
28

Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(b), for failure to accept or deny the claim for rental reimbursement within 40 days, and 2695.7(c)(1), for failure to notify the claimant every 30 calendar days when additional time was required to process the claim.

Proof of the rental claim, the invoice, was received 9-9-02. The claim was accepted and paid 1-16-03. The claim should have been accepted or denied by 10-19-02 or a letter sent to the claimant. This constitutes one violation of 2695.7(b).

An additional letter should have been sent to the claimant by 11-18-03 regarding the delay in processing the rental claim. This constitutes one violation of 2695.7(c)(1).

On March 26, 2003, the Department notified Respondent of the violations noted above.

36. Regarding: ERIC HOWARTH CSB-5869986
Claim Number: C2106112

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.3(a).

Section 2695.3(a) requires the claim files to contain all documents, notes and work papers. Here, the file provided did not include the notice of claim form as well as other documents. Therefore, a violation of this regulation has occurred.

On November 26, 2002, the Department notified Respondent of the violations noted above.

1 37. Regarding: NICOLE T. HAYES CSB-5871962
2 Claim Number: B9-237053
3 Insured: LOUISE HOOKS

4 On 9-30-02 a complaint was filed against Respondent alleging undue delay in processing the
5 bodily injury claim.

6
7 An investigation by the Department found Respondent to be in noncompliance with California
8 Insurance Code Section 790.03(h)(3) for failure to adopt and implement standards for the prompt
9 investigation and processing of claims.

10
11 There is no documentation in the file to show that any effort was made between December 2001
12 and June 2002 to obtain medical records or proof of loss of earnings for the claimant. Due to the
13 delay in requesting medical records the claimant was put in a position of obtaining the records
14 herself or risking the expiration of the statute of limitations. Fortunately, the claimant obtained
15 her records and the claim has been settled. This constitutes one violation of California Insurance
16 Code 790.03(h)(3).

17
18 On October 21, 2002, the Department notified Respondent of the violations noted above.

19
20 38. Regarding: MATTHEW BROWN CSB-5872212
21 Policy Number: 0145701585
22 Claim Number: 1001970695

23 On 10-1-02 a complaint was filed against Respondent alleging undue delay in processing the
24 claim.

25
26 An investigation by the Department found Respondent to be in noncompliance with California
27 Insurance Code Section 790.03(h)(3), for failure to implement standards for the prompt
28 investigation and processing of claims, and the Fair Claims Settlement Practices Regulations

(California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically
Section 2695.3(a), for failure to maintain all documents in the claim file.

The claim file does not contain a copy of the repair estimate or adjuster's report. This constitutes
one violation of 2695.3(a).

The claim was reported 9-10-02. An acknowledgment letter was sent to the insured 9-12-02. An
adjuster was assigned to obtain an inspection but as of 10-15-02 the vehicle had not yet been
expected. It is unclear when the inspection actually occurred and/or the estimate received because
the file does not contain this information. The insured incurred substantial rental bills because of
the delay in inspecting his vehicle. This constitutes one violation of 790.03(h)(3).

On May 2, 2003, the Department notified Respondent of the violations noted above.

39. Regarding: MELODY MENDENHALL CSB-5873303
Policy Number: 96-13965-81-48
Claim Number: 1001944904
Insured: TAMARA CUENCO

On 10-15-02, a complaint was filed against Respondent alleging undue delay in processing a
claim.

An investigation by the Department found Respondent to be in noncompliance with California
Insurance Code Section 790.03(h) (3).

Respondent received notice of claim on 9-4-02. There was a question of coverage under the
insured's policy. Respondent was aware that due to the agent's mistake, the insured's policy was
cancelled in error. Documentation in file indicated that on 10-8-02, the agent confirmed payment
of premium and agreed to reinstate policy without lapse. However, coverage was not extended for

1 this loss until 10-24-02, which contributed to the unnecessary delay in the processing of the
2 claim. Therefore, a violation of this regulation has occurred.

3
4 On November 19, 2002, the Department notified Respondent of the violations noted above.

5
6 40. Regarding: LEE WONG CSB-5876221
7 Policy Number: 96-14058-54-33
8 Claim Number: 641441742

9 On October 17, 2002, a complaint was filed against Respondent alleging undue delay in obtaining
10 reimbursement of this deductible.

11
12 An investigation by the Department found Respondent to be in noncompliance with California
13 Insurance Code Section 790.03(h)3.

14
15 A review of the claim file indicates that a payment for Property Damage was issued on May 23,
16 2002. The file was not referred to the subrogation center until September 6, 2002 where it was
17 later determined that this matter would be sent to Inter-Respondent Arbitration for a liability
18 determination.

19
20 On March 11, 2003, the Department notified Respondent of the violations noted above.

21
22 41. Regarding: RONNA BEREZIN CSB-5877363
23 Policy Number: 95-0132264820
24 Claim Number: 1002137611

25 On 1-13-03 a complaint was filed against Respondent alleging undue delay in returning her
26 deductible.

27
28 An investigation by the Department found Respondent to be in noncompliance with California

Insurance Code Section 790.03(h)(1) for misstating facts. The letter of 10-30-02 to the insured stated that Respondent was declining the claim because the insured was not responsible for damages. Since Ms. Berezin is the insured and Respondent was not declining her claim, the letter makes no sense. This constitutes one violation of 790.03(h)(1).

On March 17, 2003, the Department notified Respondent of the violations noted above.

42. Regarding: MARIANNA KANG CSB-5877589
Policy Number: 29-15341-66-10
Claim Number: 21-148049

On October 21, 2002, a complaint was filed against Respondent alleging undue delay in claim processing.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(b).

Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably suggests that a response is expected, within 15 calendar days after receipt of that communication. The complainant's attorney sent a communication to Respondent on June 17, 2002. A response to this communication was due no later than July 2, 2002. The response was not sent until September 5, 2002. Therefore, a violation of this regulation has occurred.

On November 4, 2002, the Department notified Respondent of the violations noted above.

43. Regarding: BLAINE WILLIS CSB-5881371
Policy Number: 9612575-51-98
Claim Number: 1001986738

1 On 12-23-02 a complaint was filed against Respondent alleging an unfair settlement offer on the
2 claim.

3
4 An investigation by the Department found Respondent to be in noncompliance with California
5 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
6 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
7 2695.8(b) because the actual cash value of the total loss vehicle was reduced by a "baseline
8 adjustment". This type of deduction is not allowed and has been thoroughly explained in our letter
9 of 1-21-03, and through correspondence and a meeting with the attorneys at Barger & Wolen and
10 our Executive Staff. This constitutes one violation of 2695.8(b).

11
12 On April 23, 2003, the Department notified Respondent of the violations noted above.

13
14 44. Regarding: DAVE BATSHON CSB-5884547
15 Policy Number: 95-15390-60-30
16 Claim Number: K3-092220-01
17 Insured: SHARON BATSHON

18 On November 25, 2002, a complaint was filed against Respondent alleging repairs were not
19 satisfactorily completed.

20
21 An investigation by the Department found Respondent to be in noncompliance with California
22 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
23 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically section
24 2695.3(b)(1).

25
26 Section 2695.3(b)(1) requires the claim data to be accessible, legible and retrievable. Here, some
27 of the documents are illegible (enclosed), which hindered our ability to track the actual progress
28 of the claim. Therefore, a violation of this regulation has occurred.

On February 19, 2003, the Department notified Respondent of the violations noted above.

45. Regarding: SARKIS TACHOJIAN CSB-5887340
Claim Number: C7-418231

On 10/30/03, a complaint was filed against Respondent alleging unfair claim denial.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(a).

In reference to Section 2695.5(a), this Department wrote Respondent on 11/4/03 and a complete response which includes a copy of the complete claim file would be considered late on 12/1/03.

We were advised by a Claim Supervisor in Respondent that the claim file could not be located. Respondent's incomplete written response was received on 11/20/03. Therefore, a violation of this regulation has occurred.

On March 23, 2004, the Department notified Respondent of the violations noted above.

46. Regarding: HAO VU CSB-5889439
Policy Number: 153633658
Claim Number: 70165469
Insured: BEHROUZ AFRASIABI

On December 9, 2002, a complaint was filed against Respondent alleging that a claim had been improperly denied. She further alleged undue delay in having the claim processed.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(3).

1 Section 790.03(h)(3) requires insurance companies to adopt and implement standards for the
2 prompt investigation and processing of claims. Here, Farmers Insurance mailed to the
3 complainant a letter dated March 1, 2002, which stated: "I am enclosing an authorization to
4 obtain information. This will enable me to obtain the medical records when you are ready to
5 resolve the claim." On April 11, 2002 Farmers received the complainant's signed medical
6 authorization. However, shortly before the statute date, Farmers placed the burden on the
7 complainant to provide the medical records. We feel that Farmers could have ordered the
8 medical records prior to the statute date and attempted to settle based on the information
9 available. Because Farmers had ample opportunity to request the medical records, a violation of
10 this code has occurred.

11
12 On February 11, 2003, the Department notified Respondent of the violations noted above.

13
14 47. Regarding: JOAN DERFLINGER CSB-5890035
15 Policy Number: 95 146496210
16 Claim Number: B9-247387
17 Insured: ROBERT REILY

18 On November 26, 2002, a complaint was filed against Respondent alleging undue delay in
19 processing of a claim.

20 An investigation by the Department found Respondent to be in noncompliance with California
21 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
22 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
23 2695.3(b)(1) and 2695.7(c)(1).

24 Section 2695.3(b)(1) requires the claim data to be accessible, legible and retrievable. Here, some
25 of the log notes are illegible and out of order, which hindered our ability to track the actual
26 progress of the claim. Therefore, a violation of this regulation has occurred.
27
28

1 Section 2695.7(c)(1) requires an insurer to provide notice to a claimant whenever the insurer is
2 unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this
3 case, Respondent received proof of claim on September 10, 2002. The claim was required to be
4 accepted or denied (or notice sent) by October 20, 2002. Notice was sent to the claimant advising
5 of the delay on September 30, 2002. However, continuing notices were required every 30
6 calendar days. Here, the continuing notices were required no later than October, 30 and
7 November 29, 2002. Notice was not sent until December 12, 2002. Therefore, two violations of
8 this regulation have occurred.

9
10 On January 30, 2003, the Department notified Respondent of the violations noted above.

11
12
13 48. Regarding: EDWARD FRASCO CSB-5890278
14 Policy Number: 161260373
15 Claim Number: 1-002001785
16 Insured: ANTONIO BOCANEGRA-FLORES

17 On December 12, 2002, a complaint was filed against Respondent alleging an improper denial of
18 a portion of a claim.

19 The additional damage to the vehicle was a question of fact. However, during the investigation
20 by the Department we found Respondent to be in noncompliance with California Insurance Code
21 Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of
22 Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(b), 2695.7(c)(1),
23 790.03(h)(1), 790.03(h)(5).

24
25 Section 2695.7(b) requires a claim to be accepted or denied, or a delay letter sent, within 40 days
26 of receipt of proof of claim. In this case proof of claim was received on September 23, 2002. The
27 claim was required to be accepted or denied or notice sent by November 2, 2002. The first delay
28 notice was sent on December 29, 2002. Therefore, a violation of this section occurred.

1 Section 2695.7(c)(1) requires an insurer to provide notice to a claimant whenever the insurer is
2 unable to accept or deny a claim, or a portion thereof, within the timeframe required in Section
3 2695.7(b). A continuing notice is required every 30 days and one should have been sent by
4 December 2, 2002. No delay notice was sent until December 29, 2002. Therefore, a violation of
5 this regulation occurred.

6
7 Section 790.03(h)(1) states that it is an unfair claims settlement practice to misrepresent to
8 claimants pertinent facts or policy provisions relating to any coverage at issue. The claimant was
9 advised that he was not entitled to loss of use. The Compliance Officer wrote to Respondent on
10 May 16, 2003 regarding the loss of use matter. Mr. Wilfong's May 22, 2003 letter advised me
11 that the claimant was not entitled to "rental". He did not address the loss of use. The Compliance
12 Officer called Ms. Sheldon at the claims office. She sent a loss of use payment to the claimant on
13 June 17, 2003.

14
15 Section 2695.7(h)(5) states that it is an unfair claims settlement practice to not effectuate prompt,
16 fair and equitable settlements of claims in which liability has become reasonable clear. The loss
17 occurred on September 14, 2002 and the loss of use was not paid until June 17, 2003. Therefore a
18 violation of this regulation occurred.

19 On November 5, 2003, the Department notified Respondent of the violations noted above.

20
21 49. Regarding: JASON STRANGE CSB-5890479
22 Claim Number: 1001877007
23 Insured: CESAR BASA

24 On 12/3/02, a complaint was filed against Respondent alleging that there has been an undue delay
25 in the handling of this claim, that Respondent had not made a reasonable offer of settlement.

26
27 An investigation by the Department found Respondent to be in noncompliance with California
28 Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations

(California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(b).

Section 790.03(h)(3) requires an insurer to adopt and implement standards for the prompt investigation and processing of claims. Respondent sent the claimant correspondence dated 10/18/02 and 11/13/02, each time advising the claimant that a settlement offer, regarding this bodily injury claim, would be made by Respondent within ten (10) days from the date of each of these letters. No settlement offers were made by Respondent to the claimant. This loss occurred on 8/21/02 and Respondent had the claimant's name, address and phone number since 8/22/02. Respondent did not attempt to meet with the claimant to inspect and photograph his head injury and scar until 12/11/02, which is several weeks after Respondent advised the claimant that a settlement offer would be forthcoming. As of 12/19/02, Respondent had not made a settlement offer to the claimant. Therefore, a violation of this section has occurred.

Section 2695.5(b) requires a licensee, upon receiving any communication from a claimant, regarding a claim that reasonably suggests that a response is expected shall immediately, but in no event more than 15 calendar days after receipt of the communication, furnish the claimant with a complete response based on the facts as then known by the licensee. The claimant sent correspondence dated 9/23/02 to Respondent. The claim representative received that correspondence on 9/27/02. A complete response was due, but not sent by 10/12/02. Therefore, a violation of this section has occurred.

On December 23, 2002, the Department notified Respondent of the violations noted above.

50. Regarding: DAVID ROBIDOUX CSB-5891375
Claim Number: 1002038898
Type of Coverage: Auto-Private Passenger
Insured: KERRI HAVEN

1 On 12-16-02 a complaint was filed against Respondent alleging a portion of the claim was
2 unfairly denied and unduly delayed.

3
4 An investigation by the Department found Respondent to be in noncompliance with California
5 Insurance Code Section 790.03(h)(3) for failing to adopt standards for the prompt investigation
6 and processing of claims and the Fair Claims Settlement Practices Regulations (California Code
7 of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(b)(1), for failing
8 to deny the claim in writing and 2695.7(b)(3), for failing to advise the claimant that the partial
9 claim denial could be reviewed by the California Department of Insurance.

10
11 The claim was reported 9-26-02. On 10-21-02 the claimant was contacted by Farmers and advised
12 that Respondent would accept 50% liability. This decision was communicated without any
13 investigation whatsoever. This constitutes one violation of 790.03(h)(3).

14
15 The denial of 50% liability was not communicated to the claimant in writing. This constitutes one
16 violation of 2695.7(b)(1).

17
18 The claimant was not advised of their right to have the 50% claim denial reviewed by the
19 California Department of Insurance. This constitutes one violation of 2695.5(b)(1).

20
21 On April 28, 2003, the Department notified Respondent of the violations noted above.

22
23 51. Regarding: HOWARD LEVINE CSB-5891655
24 Policy Number: 0156940760
25 Claim Number: 18-1421921
The insured: Heung S. Kim

26 On 12/18/02, a complaint was filed against Respondent alleging that there was an undue delay in
27 the handling of this claim and that Respondent had not made a reasonable offer of settlement.
28

1 An investigation by the Department found Respondent to be in noncompliance with California
2 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
3 (California Code of Regulations, Title 10, Chapter 5, Subchapters 4.5 and 7.5), specifically
4 Sections 2695.7(c)(1) and 2632.13(e)(2).

5
6 Section 2695.7(c)(1) requires every insurer to provide the claimant with written notice every 30
7 calendar days if more time is required than what is allotted in subsection 2695.7(b) to determine
8 whether a claim should be accepted or denied. The written notice shall specify any additional
9 information the insurer requires in order to make a determination and state any continuing reasons
10 for the insurer's inability to make a determination. Respondent received "proof of claim" on
11 9/19/02 in the form of medical treatment invoices. Respondent sent a written notice to the
12 claimant's legal representative on 10/1/02. An additional written notice was due, but not sent by
13 11/1/02. Therefore, a violation of this section has occurred.

14
15 An investigation by the Department found Respondent to be in noncompliance with California
16 Code of Regulations, Title 10, Chapter 5, Subchapter 4.7, specifically Section 2632.13 (e) (2).

17
18 Section 2632.13(e)(2) provides that an insurer shall not make a determination that a driver was
19 principally at-fault for an accident unless the insurer first makes an investigation of the accident
20 and provides the insured written notice of the investigation. The written notice must specify:

- 21 1. Any determination that insured was principally at-fault;
- 22 2. The percentage of fault ascribed to the insured;
- 23 3. The percentage of fault ascribed to any other driver of the accident;
- 24 4. The basis for determination that the driver was principally at-fault; and
- 25 5. The insured's right to seek reconsideration of the determination of fault.

26
27 At-fault determination notifications that simply state that an investigation was conducted and the
28 insured has been determined to be more than 51 percent at-fault do not satisfy the requirements of

1 Section 2632.13. The 2/18/02 at-fault determination letter that Respondent sent to the insured did
2 not comply with these requirements. Therefore, a violation of this section has occurred.

3
4 On February 11, 2003, the Department notified Respondent of the violations noted above.

5
6 52. Regarding: MARIE DURAN CSB-5894031

7 Policy Number: 29-0155329353

8 Claim Number: 1001704309

9 Insured: PEDRO VIRAMONTES

10 On 1-21-03, a complaint was filed against Respondent alleging improper denial of a claim.

11 An investigation by the Department found Respondent to be in noncompliance with California
12 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
13 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
14 2695.7(b) and 2695.7(c)(1).

15 Section 2695.7(b) requires an insurer to accept or deny liability no later than 40 days from proof
16 of claim. Here, proof of claim was received by Respondent on 7-25-02 in the form of a recorded
17 statement. Liability was required to be accepted, denied or notice sent per 2695.7(c)(1) no later
18 than 9-7-02. Liability was not denied until 12-9-02. Therefore, a violation of this regulation has
19 occurred.

20
21 Section 2695.7(c)(1) requires an insurer to provide the claimant with written notice specifying
22 additional information that the insurer requires to make a determination and shall provide written
23 notice every 30 calendar days until a determination is made or notice of legal action is served.
24 Status letters to the claimant were due no later than 10-7-02, 11-6-02 and 12-6-02. No status
25 letters were ever sent. Therefore, 3 violations of this regulation have occurred.

26
27 On February 13, 2003, the Department notified Respondent of the violations noted above.
28

53. Regarding: AGNES CHU CSB-5894418
Policy Number: 96-16001-66-37
Claim Number: 1002234978
Type of Coverage: Auto-Private Passenger

On February 14, 2003, a complaint was filed against Respondent alleging undue delay in processing of a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(e)(1), 2695.5(e)(2), 2695.5(e)(3) and 2695.3(a).

Section 2695.5(e)(1) requires an insurer to acknowledge the claim within 15 days of receipt. Here, Ms. Chu notified Respondent on November 14, 2002. Respondent was required to take action under this regulation no later than November 29, 2002. The required action of acknowledgement of claim was not completed until December 6, 2002. Therefore, a violation of this regulation has occurred.

Section 2695.5(e)(2) requires an insurer to provide necessary claim forms within 15 days of receipt of claim. Respondent was required to take action under this regulation no later than November 29, 2002. The required action was not completed until December 6, 2002. Therefore, a violation of this regulation has occurred.

Section 2695.5(e)(3) requires an insurer to begin the investigation no later than 15 days from "notice of claim". Respondent was required to take action under this regulation no later than November 29, 2002. The required action was not completed until December 6, 2002. Therefore, a violation of this regulation has occurred.

1 Section 2695.3(a) requires the claim files to contain all documents, notes and work papers. Here,
2 the file provided did not include an estimate as well as other items. Therefore, a violation of this
3 regulation has occurred.

4
5 On May 29, 2003, the Department notified Respondent of the violations noted above.

6
7 54. Regarding: WALLACE SMITH CSB-5894448
8 Policy Number: 95-155979722
9 Claim Number: 1002093957
10 Insured: MIRIAM SCOTT

11 On 12/17/02, a complaint was filed against Respondent alleging that there was an undue delay in
12 the handling of this claim and that Respondent did not make a reasonable offer of settlement.

13
14
15 An investigation by the Department found Respondent to be in noncompliance with California
16 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
17 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
18 2695.5(e)(2), 2632.13(e) and 2695.3(b)(2).

19
20 Section 2695.5(e)(2) requires an insurer to immediately, but in no more than 15 calendar days
21 upon receiving notice of claim, provide to the claimant necessary forms, instructions and
22 reasonable assistance, including but not limited to, specifying the information the claimant must
23 provide for proof of claim. Respondent received notification of this loss on 10/9/02 and had the
24 claimant's name and address on that date. Claim forms, information and/or reasonable assistance
25 was not provided to the claimant within 15 days from the date that Respondent received this
26 claim and had the claimant's information. Therefore, a violation of this section has occurred.

Section 2632.13(e) provides that an insurer shall not make a determination that a driver was principally at-fault for an accident unless the insurer first makes an investigation of the accident and provides the insured written notice of the investigation. The written notice must specify:

1. Any determination that insured was principally at-fault;
2. The percentage of fault ascribed to the insured;
3. The percentage of fault ascribed to any other driver of the accident;
4. The basis for determination that the driver was principally at-fault; and
5. The insured's right to seek reconsideration of the determination of fault.

At-fault determination notifications that simply state that an investigation was conducted and the insured has been determined to be more than 51 percent at-fault do not satisfy the requirements of Section 2632.13. The at-fault determination letter (letter was not dated) that Respondent sent to the insured did not comply with these requirements. Therefore, a violation of this section has occurred.

Section 2695.3(b)(2) requires every licensee assist the Insurance Commissioner or his or her duly appointed designees in the examination of the licensee's claim files by recording in the file the date the licensee received, date(s) the licensee processed and date the licensee transmitted or mailed every material and relevant document in the file. Respondent mailed an "at fault" letter to the insured that was not dated and there was no indication on the letter when it was mailed to the insured. Therefore, a violation of this section has occurred.

On January 15, 2003, the Department notified Respondent of the violations noted above.

55. Regarding: CHIU PONG CSB-5895289
Policy Number: 96158026161

1 On December 19, 2002, a complaint was filed against Respondent alleging repairs were
2 unsatisfactory.

3
4 An investigation by the Department found Respondent to be in noncompliance with California
5 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
6 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
7 2695.3(a).

8
9 Section 2695.3(a) requires the claim files to contain all documents, notes and work papers. Here,
10 the file provided did not include a copy of the payment issued. Therefore, a violation of this
11 regulation has occurred.

12
13 On February 14, 2003, the Department notified Respondent of the violations noted above.

14
15 56. Regarding: ELLSWORTH BUCEY JR. CSB-5895722
16 Policy Number: 150358135
17 Claim Number: 1002336109
18 Insured: RYAN KUEBLER

19 On December 24, 2002, a complaint was filed against Respondent alleging undue delay in claim
20 processing, unsatisfactory settlement offer, and unsatisfactory vehicle property damage repairs.

21
22 An investigation by the Department found Respondent to be in noncompliance with California
23 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
24 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
25 2695.5(b).

26
27 Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably
28 suggests that a response is expected, within 15 calendar days after receipt of that communication.

1 The claimant sent a communication to Respondent on December 20, 2002. A response to this
2 communication was due no later than January 4, 2003. The response was not sent until January
3 7, 2003. Therefore, a violation of this regulation has occurred.

4
5 On January 8, 2003, the Department notified Respondent of the violations noted above.

6
7 57. Regarding: IRENE ADLER CSB-5895929
8 Policy Number: 99-15687-28-85
9 Claim Number: 7051394
10 Insured: JAMES ROLLESTON

11 On 1/22/03, a complaint was filed against Respondent alleging that there was an undue delay in
12 the settlement of this claim and that Respondent had not made a reasonable settlement on this
13 claim.

14 An investigation by the Department found Respondent to be in noncompliance with California
15 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
16 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
17 2695.7(b) and 2695.7(c)(1).

18
19 Section 2695.7 (b) requires an insurer, upon receiving proof of claim, to immediately, but in no
20 more than forty (40) calendar days later, accept or deny the claim, in whole or in part. Respondent
21 received proof of loss in the form of a building repair estimate on 12/5/02. This claim was due to
22 be accepted, denied or notice sent with the reason(s) for any delay in settling this claim no later
23 than 1/14/03. An offer to settle this claim was not made until 2/18/03. Therefore, a violation of
24 this section has occurred.

25
26 Section 2695.7(c)(1) requires every insurer to provide the claimant with written notice every 30
27 calendar days if more time is required than what is allotted in subsection 2695.7(b) to determine
28

whether a claim should be accepted or denied. The written notice shall specify any additional information the insurer requires in order to make a determination and state any continuing reasons for the insurer's inability to make a determination. A written notice was due to be sent to the claimant, by 2/14/03, but was not. Therefore, a violation of this section has occurred.

On April 18, 2003, the Department notified Respondent of the violations noted above.

58. Regarding: LAURA GATIE CSB-5896146
Policy Number: 160366304
Claim Number: 39097036

On 1-7-03 a complaint was filed against Respondent alleging an unfair settlement offer on the claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.8(b) for taking a "baseline adjustment" on the total loss vehicle. Baseline adjustments or condition adjustments are not permitted unless the loss vehicle is considered to be below average condition. The vehicle condition as determined by Farmers was "normal wear". This constitutes one violation of 2695.8(b).

On April 28, 2003, the Department notified Respondent of the violations noted above.

59. Regarding: JENNIFER HANSFORD CSB-5896462
Claim Number: CRN1001873933-1-1

On December 30, 2002, a complaint was filed against Respondent alleging undue delay in processing a claim.

An investigation by the Department found Respondent to be in noncompliance with California

Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(e)(2), 2695.7(b) and 2695.7(c)(1).

Section 2695.5(e)(2) requires the insurer to provide the necessary forms, instructions or information to the claimant so he/she can provide proof of claim. We understand notice of claim was received by Respondent on August 20, 2002, and that the policy has medical payments coverage. However, no information was provided to the claimant regarding the bills for her broken arm. No letter was sent with instructions regarding what was necessary for proof of claim for either a medical payments or liability claim. Therefore a violation of this regulation occurred.

Section 2595.7(b) requires an insurer to accept or deny a claim no later than 40 days from proof of claim. Proof of claim was received by Respondent on September 23, 2002 when the insured and the claimant were interviewed. The claim was required to be accepted or denied, or notice sent per 2695.7(c)(1), no later than November 2, 2002. Therefore, a violation of this regulation occurred.

Section 2695.7(c)(1) requires an insurer to provide notice to the claimant whenever an insurer is unable to accept or deny a claim within the timeframe in section 2695.7(b). The claim was required to be accepted or denied by November 2, 2002. No notice was sent to the claimant advising of the delay. Continuing notice was required every 30 days, on December 2, 2002 and January 2, 2003. No continuing notices were sent. Therefore, two violations of this regulation occurred.

On January 22, 2003, the Department notified Respondent of the violations noted above.

60. Regarding: ATTORNEY RONALD DREIFORT CSB-5896577
Policy Number: 95 10873-26-45

1 Claim Number: 39-083505
2 Insured: JERRY STIERWALT

3 On 1/3/03, a complaint was filed against Respondent alleging that there was an undue delay in the
4 handling of this claim, that Respondent had not made a reasonable offer of settlement and that
5 Respondent had refused requests by the insured's legal representative to have this matter settled
6 by arbitration.

7
8 An investigation by the Department found Respondent to be in noncompliance with California
9 Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations
10 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
11 2695.3(a), 2695.3(b)(2) and 2695.5(b).

12
13 Section 790.03(h)(3) requires an insurer to adopt and implement standards for the prompt
14 investigation and processing of claims. Respondent on 6/5/02 received the 5/28/02 letter from the
15 insured's attorney. That letter stated that if Respondent did not find the insured's attorney written
16 settlement proposal acceptable, that arbitration of this matter "was demanded". As of the 1/15/03
17 letter sent to this department from Respondent, this claim has still not been settled or referred to
18 arbitration. Therefore, a violation of this section has occurred.

19
20 Section 2695.3(a) requires every licensee's claim files to include all documents, notes and work
21 papers (including copies of all correspondence) which reasonably pertain to each claim in such
22 detail that pertinent events and the dates of the events can be reconstructed and the licensee's
23 actions pertaining the claim can be determined. The review of the copy of the claim file that
24 Respondent provided to our department did not find documentation that claim activity log notes
25 had been recorded. Therefore, a violation of this section has occurred.

26
27 Section 2695.3(b)(2) requires every licensee assist the Insurance Commissioner or his or her duly
28 appointed designees in the examination of the licensee's claim files by recording in the file the

1 date the licensee received, date(s) the licensee processed and date the licensee transmitted or
2 mailed every material and relevant document in the file. Upon review of the claim file that
3 Respondent provided to our department, the date that Respondent received copies of the insured's
4 medical records and the date that Respondent received the 1/16/02 dated letter from the insured's
5 attorney were not stamped when those particular documents were received by Respondent.
6 Therefore, a violation of this section has occurred.

7
8 Section 2695.5(b) requires a licensee, upon receiving any communication from a claimant,
9 regarding a claim that reasonably suggests that a response is expected shall immediately, but in
10 no event more than 15 calendar days after receipt of the communication, furnish the claimant with
11 a complete response based on the facts as then known by the licensee. Respondent received
12 letters from the insured's attorney dated 11/2/01, 11/19/01, 12/14/01, 1/16/02, 5/15/02, 9/19/02
13 and 11/8/02 on the following dates, respectively: 11/5/01, 11/21/01, 12/18/01, 1/21/02, 5/16/02,
14 9/23/02 and 11/19/02. Complete responses were not provided to those inquiry letters within 15
15 days after receipt of the letters. Therefore, seven (7) violations of this section have occurred.

16
17 On January 17, 2003, the Department notified Respondent of the violations noted above.

18
19 61. Regarding: JING WEI CSB-5897022
20 Policy Number: 96-143773319
21 Claim Number: N2157429

22 On January 2, 2003, a complaint was filed against Respondent alleging undue delay in processing
23 of a claim.

24
25 An investigation by the Department found Respondent to be in noncompliance with California
26 Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations
27 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
28 2695.7(f).

1 Section 790.03(h)(3) requires insurance companies to adhere to standards of prompt investigation
2 and processing of claims. Here, Farmers closed its file on February 18, 2002 prior to contacting
3 the complainant. There was no further activity until Farmers contacted the complainant on
4 December 3, 2002. Clearly, this caused a delay in resolving the complainant's claim. Therefore,
5 a violation of this code has occurred.

6
7 Section 2695.7(f) requires insurance companies to give 60-day notice of the expiration of the
8 statute of limitations. Here, Farmers gave notice 41 days before the expiration of the statute.
9 Therefore, a violation of this regulation has occurred.

10
11 On February 25, 2003, the Department notified Respondent of the violations noted above.

12
13 62. Regarding: DONNA LIPPIS CSB-5897233
14 Claim Number: 1001934024
15 Insured: NOEL BATTIN

16 On 12/30/02, a complaint was filed against Respondent alleging an undue delay in processing this
17 claim.

18 An investigation by the Department found Respondent to be in noncompliance with California
19 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
20 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
21 2695.7 (c)(1) and 2695.7 (b).

22
23 Section 2695.7(c)(1) requires an insurer to provide notice to a claimant whenever the insurer is
24 unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this
25 case, proof of claim was received by Respondent on 9/24/02 in the form of the estimate of
26 9/20/02. The claim was required to be accepted or denied (or notice sent) by 11/3/02. The notice
27 was not sent until 11/14/02. Also, continuing notice was required every 30 calendar days. Here,
28

1 the continuing notice was required no later than 12/14/02. No continuing notice was ever sent to
2 the claimant. Therefore, a violation of this regulation has occurred.

3
4 Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from "proof
5 of claim". Here, proof of claim was received by Respondent on 9/24/02 in the form of an
6 estimate dated 9/20/02. This claim was required to be accepted or denied, or notice sent per
7 2695.7(c)(1), no later than 11/3/02. The claim was not accepted until 1/6/03 as evidenced by the
8 claims file log note. Therefore, a violation of this regulation has occurred.

9
10 On January 22, 2003, the Department notified Respondent of the violations noted above.

11
12 63. Regarding: RHIANA CHABOLLA CSB-5898858
13 Claim Number: 35-098249
14 Insured: DAVID SILVEIRA

15 On 1/29/03, a complaint was filed against Respondent alleging that there was a delay in handling
16 of this claim and that Respondent denied this claim in error, advising that the statute of limitation
17 had expired.

18
19 An investigation by the Department found Respondent to be in noncompliance with California
20 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
21 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
22 2695.3(a), 2695.5(a) and 2695.7(c)(1).

23
24 Section 2695.3(a) states that every licensee's claim files shall be subject to examination by the
25 Commissioner or by his or her duly appointed designees. These files shall include all documents,
26 notes and work papers (including copies of all correspondence) which reasonably pertain to each
27 claim in such detail that pertinent events and the dates of the events can be reconstructed and the
28 licensee's actions regarding the claim can be determined. The copy of the claim file that

Respondent provided did not have information regarding the date Respondent received this claim and did not include any include any claim file activity log notes. Therefore, a violation of this section has occurred.

Section 2695.5(a) requires a licensee, upon receiving any written or oral inquiry from the Department of Insurance concerning a claim, to immediately, but in no event more than twenty-one (21) calendar days of receipt of that inquiry, furnish the Department of Insurance with a complete written response based on the facts as then known by licensee. A complete written response addresses all issues raised by the Department of Insurance in its inquiry and includes copies of any documentation and claim files requested. Our Department sent an inquiry letter to Respondent dated 1/29/03 requesting a complete response, including a copy of the claim file. A copy of the claim file was due to be received in this Department by 2/19/03 but was not received in this Department until 6/20/03. Also, our Department also sent an inquiry letter dated 10/8/03, which requested a complete written response be provided to our Department within 30 days. A complete response was due by 11/7/03, but was not provided until 11/26/03. Another inquiry letter was sent to Respondent from our Department dated 10/24/03. A complete response was required to be provided to our Department by 11/20/03, but was not provided until 11/26/03. Therefore, three (3) violations of this section have occurred.

Section 2695.7(c)(1) requires every insurer to provide the claimant with written notice every 30 calendar days if more time is required than what is allotted in subsection 2695.7(b) to determine whether a claim should be accepted or denied. The written notice shall specify any additional information the insurer requires in order to make a determination and state any continuing reasons for the insurer's inability to make a determination. Written notices were due to be sent by Respondent to the claimant, but were not sent by, 4/20/01, 5/20/01, 6/19/01, 7/19/01, 8/18/01, 9/17/01, 10/17/01, 11/16/01, 12/16/01 and 1/15/02. Therefore, ten (10) violations of this section have occurred.

On December 2, 2003, the Department notified Respondent of the violations noted above.

64. Regarding: KAMERON MCGOWAN CSB-5898983
Claim Number: 1002124998

On 1-31-03 a complaint was filed against Respondent alleging an unfair settlement offer.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(e)(2) for failure to provide the necessary claim forms within 15 days of being notified of the claim. Respondent received notice of claim 10-17-02. The claim form was not sent to the insured until 12-4-02. This constitutes one violation of 2695.5(e)(2).

In addition, we find noncompliance with 2695.3(a) because the claim file does not contain all of the documents. There is not a copy of the 1-7-03 revised settlement offer letter in the file. Neither is the insured's documentation that was received in the offices 12-24-02. This constitutes one violation of 2695.3(a).

On February 18, 2003, the Department notified Respondent of the violations noted above.

65. Regarding: EDELWINA MALLARI CSB-5899005
Policy Number: 149902005
Claim Number: 1002283870

On 1-21-03 a complaint was filed against Respondent alleging undue delay in processing the claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(3), for failure to implement standards for the prompt investigation and processing of claims, and the Fair Claims Settlement Practices Regulations

(California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(a), for failure to respond to a Department of Insurance inquiry within 21 days.

The Department of Insurance inquiry dated 3-10-03 was not answered within 21 days. The response was received 4-28-03. This constitutes one violation of 2695.5(a).

In addition, liability was accepted 11-27-02. However, it took until 1-13-03 before the vehicle was inspected. This constitutes one violation of California Insurance Code 790.03(h)(3).

On May 19, 2003, the Department notified Respondent of the violations noted above.

66. Regarding: DOMINGO GO CSB-5899109
Policy Number: 30 14562-56-36
Claim Number: 1002231712

On 1-15-03 a complaint was filed against Respondent alleging an unfair settlement offer on the claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(1) for misstating facts and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.8(b), for taking an inappropriate deduction from the actual cash value of the total loss vehicle.

The letter of 1-27-03 states "...all storage and rental bills on file have been paid, despite the fact that you do not have rental coverage on the policy." However, no rental bills were paid. When the insured and this Department questioned the statement we were advised that the policy doesn't provide 1st party rental coverage and that the rental bills were forwarded to the Subrogation Department for inclusion with the subrogation claim to Mercury Insurance. This constitutes one violation of 790.03(h)(1).

1 The actual cash value calculation included a deduction for "baseline adjustment". Respondent
2 were advised that this Department does not allow baseline adjustments on total loss settlements as
3 such an adjustment renders the final settlement amount inaccurate. This constitutes one violation
4 of 2695.8(b).

5
6 On April 14, 2003, the Department notified Respondent of the violations noted above.

7
8 67. Regarding: PEGGY NUNES CSB-5899165
9 Claim Number: 1002000454
10 Insured: BARBARA GABLER

11 On 1/29/03, a complaint was filed against Respondent alleging that Respondent had unduly
12 delayed the handling of this claim.

13
14 An investigation by the Department found Respondent to be in noncompliance with California
15 Insurance Code Section 790.03(h)(3).

16
17 Section 790.03(h)(3) requires an insurer to adopt and implement standards for the prompt
18 investigation and processing of claims. The 9/17/02 activity log notes indicate that Respondent
19 claim representative knew that additional people were involved in this loss. It is not clear whether
20 Respondent knew the name and address of the claimant involved in this loss on 9/17/02.

21 However, Respondent received a copy of the police report by 10/29/02, which indicated that a
22 permissive driver of the insured's vehicle was at fault for this loss and that the claimant had been
23 taken to a hospital by an ambulance. The police report included the claimant's name and address.

24 Respondent was required to promptly investigate the damages related to this claim and to
25 determine liability for this loss. However, Respondent did not begin its investigation regarding
26 the liability for this claim until Respondent received the 12/30/02 subrogation demand from the
27 claimant's insurer. Because this portion of this claim was not promptly investigated and
28 processed, a violation of this section has occurred.

On September 26, 2003, the Department notified Respondent of the violations noted above.

68. Regarding: DONALD OLIVEIRA CSB-5899785

Policy Number: 99-15694-08-33

Claim Number: 1002413751

Insured: PUNG KIM

On 1-21-03, a complaint was filed against Respondent alleging undue delay in processing a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(5).

Section 790.03(h)(5) requires an insurer to effectuate prompt, fair and equitable settlement of claims in which liability has become reasonably clear. Documentation in the file indicated the claimant contacted Respondent on 1-1-03 and liability was accepted on 1-6-03. Respondent's claim activity log documents that the claim representative was aware that the claimant's trailer was damaged by the insured, however, no attempt was made by Respondent to inspect claimant's trailer for damages until 2-6-03. It appears that Respondent did not make active attempts to resolve this claim until after our Department contacted Respondent by our letter of 1-27-03. Therefore, a violation of this section has occurred.

On February 27, 2003, the Department notified Respondent of the violations noted above.

69. Regarding: PHYLLIS LUCKEY CSB-5899816

Policy Number: 9516066-97-64

Claim Number: A4123243

Insured: JAMES LUCKEY

On January 31, 2003, a complaint was filed against Respondent alleging that a portion of the claim has been disallowed unfairly.

1 An investigation by the Department found Respondent to be in noncompliance with California
2 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
3 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
4 2695.7(b)(3).

5
6 In reference to section 2695.7(b)(3), denial notifications must advise the claimant that they may
7 have the denial reviewed by California Department of Insurance (CDI). Here, the denial letter
8 dated November 14, 2002 did not include the CDI information. Therefore, a violation of this
9 regulation has occurred.

10
11 On April 30, 2003, the Department notified Respondent of the violations noted above.

12
13 70. Regarding: LORRAINE TAYLOR CSB-5900008
14 Policy Number: 95-0153914465
15 Claim Number: 1002303977-1-2

16 On 7/1/03, a complaint was filed against Respondent alleging that Respondent unduly delayed the
17 handling of this claim and had not reimbursed medical expenses submitted to Respondent for
18 consideration.

19
20 An investigation by the Department found Respondent to be in noncompliance with California
21 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
22 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
23 2695.7(b), 2695.5(b) and 2695.7(c)(1).

24
25 Section 2695.7 (b) requires an insurer, upon receiving proof of claim, to immediately, but in no
26 more than forty (40) calendar days later, accept or deny the claim, in whole or in part or provide a
27 written explanation advising any reasons for a delay in the claim handling. On 2/18/03,
28 Respondent received proof of claim in the form of medical receipts and invoices for medical

1 services the insured received due to this loss. Respondent was required to accept, deny or send a
2 written notice regarding the status of this claim no later than 3/28/03. This claim was not accepted
3 or denied by 3/28/03. Also, notice was not sent by 3/28/03 providing any reasons for the delay in
4 the handling of this portion of the claim. This claim was not paid until 7/18/03. Therefore, a
5 violation of this section has occurred.

6
7 Section 2695.5(b) requires a licensee, upon receiving any communication from a claimant,
8 regarding a claim that reasonably suggests that a response is expected shall immediately, but in
9 no event more than 15 calendar days after receipt of the communication, furnish the claimant with
10 a complete response based on the facts as then known by the licensee. Respondent did not provide
11 a written response to the fax that this insured sent to Respondent on 3/25/03. A complete response
12 from Respondent was due no later than 4/9/03. Because a complete response was not sent to the
13 insured, a violation of this section has occurred.

14
15 Section 2695.7(c)(1) requires an insurer to provide notice to a claimant whenever the insurer is
16 unable to accept or deny a claim within the timeframe required in Section 2695.7(b). In this case,
17 "proof of claim" was received by Respondent on 2/18/03 in the form of receipts and/or invoices
18 for medical services the insured received due to this loss. Written status letters were due, but not
19 sent, by 4/27/03, 5/27/03 and 6/26/03. Therefore, three (3) violations of this section have
20 occurred.

21
22 On July 22, 2003, the Department notified Respondent of the violations noted above.

23
24 71. Regarding: RICHARD MOISA CSB-5901473

25 Claim Number: 1002282399

26 Insured: NAK CHOI

27 On 2-3-03 a complaint was filed against Respondent alleging undue delay in processing the
28 claim.

1 An investigation by the Department found Respondent to be in noncompliance with California
2 Insurance Code Section 790.03(h)(3) for failure to adopt standards for the prompt investigation
3 and processing of claims. The claim was assigned to an adjuster to obtain an estimate of damages
4 on 12-6-02. Due to a computer error the assignment was not received. No follow up was
5 performed by the office. Consequently, the vehicle was not inspected until 2-5-03 and payment
6 processed 2-13-03.

7
8 On February 20, 2003, the Department notified Respondent of the violations noted above.

9
10 72. Regarding: ELIZABETH SCOBBA CSB-5901477
11 Claim Number: 1001793487

12 On 1/31/03, a complaint was filed against Respondent alleging undue delay in processing.
13 An investigation by the Department found Respondent to be in noncompliance with the Fair
14 Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5,
15 Subchapter 7.5), specifically Section 2695.5(e)2 and 2695.5(e)3.

16
17 Section 2695.5(e)(2)&(3) requires an insurer to (2) provide necessary claim forms (3)begin the
18 investigation no later than 15 calendar days from 'notice of claim'. Notice of claim was received
19 by Respondent on 8/6/02. Respondent was required to take action under this regulation no later
20 than 8/21/03. The required action necessary forms/investigation was not done until 2/15/03.
21 Therefore, a violation of this regulation has occurred.

22
23 On September 29, 2003, the Department notified Respondent of the violations noted above.

24
25 73. Regarding: SHING TARN CSB-5903577
26 Policy Number: 90929-12-48
27 Claim Number: 1002535750
28

On 2/20/03, a complaint was filed against Respondent alleging that Respondent unduly delayed the handling of this claim and that this claim was denied in error.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 880.

Insurance Code Section 880 requires every insurer to conduct its business in this State in its own name (please see the attached copy for information regarding Section 880). Respondent sent a letter to the insured dated 2/27/03 which did not identify the name of the insurance Respondent that underwrote this policy of insurance (Respondent). Therefore, a violation of this section has occurred.

On March 5, 2003, the Department notified Respondent of the violations noted above.

74. Regarding: HOUSHANG HAMIDI CSB-5903675
Policy Number: 97 14475 63 46
Claim Number: 701 636 99

On 01-28-03, a complaint was filed against Respondent alleging a claim had been improperly denied.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(a).

In reference to Section 2695.5(a), this Department sent a letter to Respondent on 02-03-03 and a response was considered late on 03-01-03. The response was not received in our office until 02-26-03 but was not complete. Therefore one violation of this regulation has occurred.

On March 11 2003, the Department notified Respondent of the violations noted above.

75. Regarding: PAUL HILL CSB-5904083

Policy Number: F 90918-93-08

Claim Number: 1002494146

Insured: YVONNE L. GWIN

On 2/4/03, a complaint was filed against Respondent alleging that Respondent denied part of this claim in error.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(b)(3).

Section 2695.7(b)(3) requires that when a claim has been denied or rejected, a statement must be provided to the claimant advising that he or she may have the matter reviewed by the Department of Insurance and shall include the address and the telephone number of the department.

Respondent denied a bodily injury Claim presented by Alfred E. Henry in a denial letter dated 2/5/03. Because Respondent did not include the information required by this section in the 2/5/03 denial letter, a violation of this section has occurred.

On September 18, 2003, the Department notified Respondent of the violations noted above.

76. Regarding: CYNTHIA MOSELEY CSB-5905131

Policy Number: 2915335-16-55

Claim Number: 1002270058

Insured: LYNN FOSTER

On February 19, 2003, a complaint was filed against Respondent alleging undue delay in processing the claim. In addition, the claimant alleged that a portion of the claim had been

1 improperly denied.

2
3 An investigation by the Department found Respondent to be in noncompliance with California
4 Insurance Code Section 790.03(h)(3).

5
6 Section 790.03(h)(3) requires the prompt investigation and timely payment of claims.

7 Respondent has acknowledged that the assigned adjuster did not act in a timely manner on
8 information available to him that would have expedited a full settlement of the property damages
9 claim. Respondent advises that it did not act on the claimant information that it received on
10 November 25, 2002 until February 5, 2003. In addition, witness information received on
11 December 23, 2003 was not acted upon and this inaction limited the full payment due on the loss.
12 The additional payment amount due was not made until February 21, 2003.

13
14 On May 21, 2003, the Department notified Respondent of the violations noted above.

15
16
17 77. Regarding: ANNA BINICOS CSB-5905283
18 Policy Number: 0050381924
Claim Number: N1191858

19 On 2/7/03, a complaint was filed against Respondent alleging that Respondent incorrectly denied
20 a portion of the damages claimed and that Respondent unduly delayed the handling of this claim.

21
22 An investigation by the Department found Respondent to be in noncompliance with California
23 Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations
24 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
25 2695.7(b)(1).

26
27 Section 790.03(h)(3) requires an insurer to adopt and implement standards for the prompt
28

1 investigation and processing of claims. Respondent received notice of this claim on 1/8/02 and
2 inspected this loss for damages on 1/9/02. On 1/9/02, mold was noticed in the closet of the
3 insured home and it is reflected in the claim file that the insured was notified that mold would not
4 be covered under this policy. On 4/11/02, Respondent sent payment to the insured for the
5 coverage damages. However, a partial denial letter for the mold damage that was not covered by
6 this policy was not sent to the insured until 8/13/02. Because the partial denial letter was not sent
7 to the insured promptly when Respondent first became aware that there was no coverage for the
8 mold damage, a violation of this section has occurred.

9
10 Section 2695.7(b)(1) requires all claim denials to be in writing and provide a statement listing all
11 bases for such rejection or denial and the fact and legal bases for each reason given for such
12 rejection or denial which is then in the insurer's knowledge. Where an insurer's denial of a first
13 party claim, in whole or in part, is based on a specific policy provision, condition or exclusion,
14 the written denial shall include reference thereto and provide an explanation of the application of
15 the provision, condition or exclusion to the claim. The 4/11/02 denial letter that Respondent sent
16 to the insured to deny coverage for the portion of the pipe that failed, did not comply with this
17 section. Therefore, a violation of this section has occurred.

18
19 On March 4, 2003, the Department notified Respondent of the violations noted above.

20
21 78. Regarding: ERIK KIMOTO CSB-5905398
22 Policy Number: 29-12355-03-93
23 Claim Number: 1002253074
24 Insured: ORTIZ, PRUDENCIO

25 On 01-24-03, a complaint was filed against Respondent alleging a delay in having the claim
26 processed and unfair denial of claim.

27
28 An investigation by the Department found Respondent to be in noncompliance with California

1 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
2 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
3 2695.7(b).

4
5 Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from "proof
6 of claim". Here, proof of claim was received by Respondent on 12-11-02 when Respondent
7 received photographs of the claimant's vehicle. The claim was required to be accepted or denied,
8 or notice sent per 2695.7(c)(1), no later than 01-20-03. The claim was not denied until 01-24-03.
9 Therefore, one violation of this regulation {2695.7(b)} has occurred.

10
11 On February 25, 2003, the Department notified Respondent of the violations noted above.

12
13
14 79. Regarding: ELAINE GEORGE CSB-5905687
15 Claim Number: E8-238527
Insured: ALFRED DARTOIS

16 On February 5, 2003, a complaint was filed against Respondent alleging delay in processing of a
17 claim and failure to return calls.

18
19 An investigation by the Department found Respondent to be in noncompliance with California
20 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
21 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
22 2695.5(b).

23
24 Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably
25 suggests that a response is expected, within 15 calendar days after receipt of that communication.
26 The claimant sent a communication to Respondent on August 14, 2002. A response to this
27 communication was due no later than August 29, 2002. The response was not sent until February
28 5, 2003.

On January 12, 2004, the Department notified Respondent of the violations noted above.

80. Regarding: JOHN COSTIN CSB-5906267
Claim Number: 1002007995
Insured : Armenta, Phil

On 1/31/03 a complaint was filed against Respondent alleging an unfair settlement amount and lack of communication concerning this claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(b) on two separate occasions.

Our review of the claim file revealed that the attorney representing the claimant wrote to Respondent on 11/26/02 and 12/03/02. The response to these letters was not provided until 1/13/03. Section 2695.5(b) requires licensees to provide a response to claimants within 15 days of an inquiry. Therefore, two violations of Section 2695.5(b) occurred.

On February 26, 2003, the Department notified Respondent of the violations noted above.

81. Regarding: DAVID LLOYD CSB-5906340
Policy Number: 0159461768
Claim Number: 1002188911
Insured: GARY GRIFFITHS

On February 10, 2003, a complaint was filed against Respondent alleging undue delay in processing of a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations

(California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(b) and 2695.8(b)(1).

Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from "proof of claim". Here, Respondent received proof of claim on December 4, 2002 in the form of an estimate of repairs. This claim was required to be accepted or denied, or notice sent per 2695.7(c)(1), no later than January 13, 2003. The claim was not accepted until February 7, 2003 and no notice was mailed within the time frame required. Therefore, a violation of this regulation has occurred.

Section 2695.8(b)(1) requires insurance companies to provide a written explanation of the basis of the total loss settlement. Here, no written explanation was provided to the complainant. Therefore, a violation of this regulation has occurred.

On May 23, 2003, the Department notified Respondent of the above noted violation

82. Regarding: JAMES MARTINEZ CSB-5906518
Policy Number: A357721
Claim Number: E8275142

On May 13, 2003, a complaint was filed against Respondent alleging unsatisfactory settlement offer.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.8(b).

Section 2695.8(b) mandates companies to fairly adjust for the differences between the insured's vehicle and comparable vehicles. Nevertheless, the determination of value must be supported by

1 documentation. Here, no supporting documentation has been provided for the condition
2 adjustment.

3
4 On September 4, 2003, the Department notified Respondent of the above noted violation

5
6 83. Regarding: CYNTHIA LEONHARDT CSB-5906566
7 Claim Number: B-9248151
8 Insured: TUONG LE

9 On 2/6/03, a complaint was filed against Respondent alleging an insufficient settlement offer, and
10 undue delay in processing this claim.

11
12 An investigation by the Department found Respondent to be in noncompliance with California
13 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
14 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
15 2695.7 (b) and 2695.7 (c) (1).

16
17 Section 2695.7 (b) requires an insurer to accept or deny a claim no later than 40 days from "proof
18 of claim". Here, proof of claim was received by Respondent on 9/20/02 in the form of a vehicle
19 valuation report dated 9/20/02. This claim was required to be accepted or denied, or notice sent
20 per 2695.7(c)(1), no later than 10/30/02. No notices were ever sent as per our claim file review.
21 Therefore, a violation of this regulation has occurred.

22
23 Section 2695.7(c)(1) requires an insurer to provide notice to a claimant whenever the insurer is
24 unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this
25 case, proof of claim was received by Respondent on 9/20/02 in the form of the valuation report of
26 9/20/02. The claim was required to be accepted or denied, or notice sent, by 10/30/02. No notice
27 was ever sent to the claimant advising of the delay. Also, continuing notices were required every
28 30 calendar days. Here, the continuing notices were required no later than 11/29/02, 12/29/02,

1 and 1/28/03. No continuing notices were ever sent to the claimant. Therefore, three violations of
2 this regulation have occurred.

3
4 On February 26, 2003, the Department notified Respondent of the above noted violation

5
6 84. Regarding: NANCY COOK-COMPLAINANT CSB-5907431
7 Policy Number: 0153653519
8 Claim Number: 1002254157-1-5
9 Type of Coverage: Auto-Private Passenger
Insured: ALDEN

10 On May 22, 2003, a complaint was filed against Respondent alleging an inadequate offer for
11 rental car and lost wages. Also, a lack of response to a certified, return receipt letter sent on
12 March 31, 2003.

13
14 An investigation by the Department found Respondent to be in noncompliance with California
15 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
16 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
17 2695.5(b).

18
19 Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably
20 suggests that a response is expected, within 15 calendar days after receipt of that communication.
21 The claimant sent a communication to Respondent on March 31, 2003. A response to this
22 communication was due no later than April 15, 2003. The response was not sent until June 12,
23 2003, when Respondent responded to an inquiry from this Department. Therefore a violation of
24 this regulation has occurred.

25
26 On August 18, 2003, the Department notified Respondent of the above noted violation.
27
28

85. Regarding: KARIN FITZGERALD CSB-5909863
Policy Number: 162343074
Claim Number: 1002342700
Insured: GABRIEL VILLANUEVA

On 2-28-03, a complaint was filed against Respondent alleging undue delay in the processing of the above-captioned claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(3) as well as 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections 2695.3(b)(2) and 2695.5(b).

California Insurance Section 790.03(h)(3) states that a licensee is not in compliance with this statute if they fail to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies. In this case, as evidenced by our review of the documentation Respondent submitted to this Department, Respondent failed to respond timely to the complainant's correspondence dated 1-29-03. Also, Mr. Kurt Moegle of Respondent acknowledged to the Compliance Officer via a telephone conversation on 4-11-03 that Respondent closed the above-captioned file in error, even though the correspondence to the complainant dated 3-17-03 (a copy of which was sent to this Department) stated that Respondent was still continuing to process the claim and that the assigned adjuster will "complete the investigation and advise you accordingly." Respondent later reopened the claim, accepted liability and paid the claim. Therefore, one violation of this statute has occurred.

Section 2695.3(b)(2) requires all licensees to record in the file the date the licensee received, date(s) the licensee processed and the date the licensee transmitted or mailed every material and relevant document in the file. In this case, Respondent failed to accurately record the date Respondent received a letter from the complainant. Specifically, although the letter to the complainant dated 3-17-03 states that Respondent did not receive the complainant's letter dated 1-

1 29-03 until 3-13-03, Respondent later acknowledged via the 4-30-03 correspondence to the
2 complainant that Respondent in fact had received the complainant's correspondence 1-29-03 on 2-
3 18-03 via registered mail, but failed to scan the letter into the electronic file until 3-13-03. The
4 copy of the complainant's 1-29-03 letter in the file fails to evidence the correct date the document
5 was received by Respondent (2-18-03). Therefore, one violation of this regulation has occurred.

6
7 Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably
8 suggests that a response is expected, within 15 calendar days after receipt of that communication.
9 In this case, there is a letter in the claim file from the claimant dated 1-29-03. The complainant
10 sent the letter to Respondent via registered mail and the return receipt evidences that a
11 representative of Respondent signed for the letter on 2-18-03. Therefore, a complete response to
12 this correspondence was due no later than 3-6-03. Among other things, the complainant alleges in
13 her letter that she has left numerous telephone messages for a Farmers representative, but has not
14 received a return call to date. The complainant states "I am expecting a timely reply to this letter."
15 Although the letter to the complainant dated 3-17-03 states that Respondent did not receive the
16 complainant's 1-29-03 letter until 3-13-03, Respondent acknowledged in Respondent's 4-30-03
17 correspondence to the complainant that Respondent actually received the complainant's 1-29-03
18 letter on 2-18-03. Thus, the response to the complainant was not timely, as Respondent did not
19 provide a complete response to the complainant's 1-29-03 letter until 3-17-03, when Respondent
20 sent a letter to the complainant in response to this complaint. As stated above, a complete
21 response was due no later than 3-6-03. Therefore, one violation of this regulation has occurred.

22
23 On June 9, 2003, the Department notified Respondent of the above noted violation.

24
25 86. Regarding: DENISE HEMBREE CSB-5910796
26 Policy Number: 158695280

27 On 2/27/03, a complaint was filed against Respondent alleging undue delay in processing.
28

1 An investigation by the Department found Respondent to be in noncompliance with the Fair
2 Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5,
3 Subchapter 7.5), specifically Sections 2695.5(e)(1), 2695.7(b) and 2695.7(c)(1).

4
5 Section 2695.5(e)(1) requires an insurer to acknowledge the claim, no later than 15 calendar days
6 from notice of claim. Notice of claim was received by Respondent on 8/01/02. Respondent was
7 required to take action under this regulation no later than 8/16/02. The required action was never
8 done. Therefore a violation of this regulation has occurred.

9
10 Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from proof
11 of claim. Here, proof of claim was received by Respondent on 8/1/02 in the form of a repair
12 receipt. This claim was required to be accepted or denied, or notice sent per 2695.7(c)(1), no later
13 than 9/10/02. The claim was not accepted until 3/5/03 as evidenced by the settlement check of
14 3/5/03. Therefore a violation of this regulation has occurred.

15
16 Section 2695.7(c)(1) requires an insurer to provide notice to a claimant whenever the insurer is
17 unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this
18 case, proof of claim was received by Respondent on 8/01/02. The claim was required to be
19 accepted or denied by 9/10/02. No notice was ever sent to the claimant advising of the delay.
20 Also, continuing notice was required every 30 calendar days. Here, the continuing notice was
21 required no later than 10/10, 11/9, 12/9/02, 1/8 and 2/7/03. No continuing notice was ever sent to
22 the claimant. Therefore, five (5) violations of this regulation have occurred.

23
24 On July 30, 2003, the Department notified Respondent of the above noted violation.

25
26 87. Regarding: SHELDON YU CSB-5912828
27 Claim Number: 1001929331
28

1 On March 13, 2003, a complaint was filed against Respondent alleging undue delay in
2 processing.

3
4 An investigation by the Department found Respondent to be in noncompliance with California
5 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
6 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
7 2695.7(b) and 2695.7(c)(1).

8
9 Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from "proof
10 of claim". Here, Respondent received proof of claim on December 3, 2002 in the form of medical
11 bills for the bodily injury claim. This claim was required to be accepted or denied, or notice sent
12 per 2695.7(c)(1), no later than January 12, 2003. The records indicate no notice was sent
13 advising of a delay in the processing of the claim. Therefore, a violation of this regulation has
14 occurred.

15
16 Section 2695.7(c)(1) requires an insurer to provide notice to a claimant whenever the insurer is
17 unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this
18 case, Respondent received proof of claim on December 3, 2002 in the form of medical bills. The
19 claim was required to be accepted or denied or notice sent by January 12, 2003. No notice was
20 ever sent to the claimant advising of the delay. Also, continuing notice was required every 30
21 calendar days. Here, the continuing notices were required no later than February 12, 2003 and
22 March 14, 2003. No continuing notice was ever sent to the claimant. Therefore, two violations
23 of this regulation have occurred.

24
25 On May 15, 2003, the Department notified Respondent of the above noted violation.

26
27 88. Regarding: KENWOOD LINDBERG CSB-5914021
28 Policy Number: 97121531795
Claim Number: 1001809081

On 3/10/03, a complaint was filed against Respondent alleging undue delays in the processing of this claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(h).

Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days from acceptance of claim. Here, the claim was accepted on 1/8/03 as evidenced by Respondent's 1/8/03 receipt of the signed Cash in Lieu form. Payment of this claim was required by 2/7/03. The claim was not paid until 3/24/03. Therefore, a violation of this regulation has occurred.

On April 30, 2003, the Department notified Respondent of the above noted violation.

89. Regarding: BALTAZAR MATA HERNANDEZ CSB-5915842
Policy Number: 96-149888385
Claim Number: 1002214148
Insured: ARCADIA PETERSON

On April 17, 2003, a complaint was filed against Respondent alleging undue delay on processing a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)3.

In reference to Section 790.03(h)3, the complainant contacted Respondent on November 13, 2003 to advise the need to have his vehicle inspected. As of the letter dated April 29, 2003 Respondent

1 failed to inspect the claimant vehicle and the vehicle is now disposed of. In addition, a second
2 violation of Section 790.03(h)3 occurred when the adjuster made a liability determination two
3 and a half months (2 1/2) post loss with the same information that he had available at the time of
4 his initial investigation. This is evidenced by the claim file log notes. Therefore two (2) separate
5 violations of Section 790.03(h)(3) have occurred on this claim.

6
7 On June 17, 2003, the Department notified Respondent of the above noted violation.

8
9 90. Regarding: MARIA FAVIOLA ESTRADA CSB-5919050
10 Policy Number: 30150398915
11 Claim Number: 37138586
12 Insured: KRISTIN MARIA FEATHERS

13 On 4/1/03 a complaint was filed against Respondent alleging undue delay in processing the claim.

14
15 An investigation by the Department found Respondent to be in noncompliance with California
16 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
17 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
18 2695.5(e)(1), 2695.5 (e)(2), 2695.7 (b), and 2695.7 (c)(1).

19
20 Section 2695.5(e)(1) requires an insurer to immediately, but in no more than 15 days from receipt
21 of the claim, acknowledge receipt of the claim to the claimant. A reply was due by 4/25/02. The
22 notice was never sent, therefore, a violation of this section has occurred.

23
24 Section 2695.5(e)(2) requires an insurer to immediately , but in no more than 15 calendar days
25 upon receiving notice of claim, provide to the claimant necessary forms, instructions and
26 reasonable assistance, including but not limited to, specifying the information the claimant must
27 provide for proof of claim. This was never done, therefore a violation of this section has occurred.

1 Section 2695.7 (b), modified by Section 2695.7 (k) which states that subject to Section 2695.7
2 (c), where there is a reasonable basis, supported by specific information available for review by
3 the California Department of Insurance, for belief that the claimant has submitted or caused to be
4 submitted to an insurer a suspected false or fraudulent claim as specified in California Insurance
5 Code Sections 1871.1(a) and 1871.4(a), the number of calendar days specified in 2695.7(b)
6 (which requires an insurer, upon receiving proof of claim, to immediately, but in no more than
7 forty (40) calendar days, accept or deny the claim, in whole or in part) shall be: (1) increased to
8 eighty (80) days; or, (2) suspended until otherwise ordered by the Commissioner, provided the
9 insurer has complied with California Insurance Code Section 1872.4 and the insurer can
10 demonstrate to the Commissioner that it has made a diligent attempt to determine whether the
11 subject claim is false or fraudulent within the eighty day period specified by subsection
12 2695.7(k)(1). The insured vehicle was towed to the repair shop and a loss report was done on
13 4/10/02. Respondent was required to take action under this regulation no later than 6/29/02. The
14 required action was not done until 4/2/03.

15
16 Section 2695.7(c)(1) requires an insurer to provide notice to a claimant whenever the insurer is
17 unable to accept or deny a claim within the timeframe required in Section 2695.7(b). In this case,
18 "proof of claim" was received by Respondent on 4/10/02 when the insured vehicle was towed to
19 the repair shop and a loss report was done. The claim was required to be accepted or denied (or
20 notice sent) by 6/29/02. No notice was ever sent, therefore a violation of this section has occurred.

21
22 Section 2695.7(c)(1) requires every insurer to provide the claimant with written notice every 30
23 calendar days if more time is required than what is allotted in subsection 2695.7(b) to determine
24 whether a claim should be accepted or denied. The written notice shall specify any additional
25 information the insurer requires in order to make a determination and state any continuing reasons
26 for the insurer's inability to make a determination. Written notices were due, but not sent by
27 7/29/02, 8/28/02, 9/27/02, 10/27/02, 11/26/02, 12/26/02, 1/25/03, 2/24/03, 3/26/03. Therefore,
28 nine (9) violations of this regulation have occurred.

On April 25, 2003, the Department notified Respondent of the above noted violation.

91. Regarding: DIANNE COOPER CSB-5919581

Policy Number: 9715691-73-73

Claim Number: 100-250-1200

On 4/18/03, a complaint was filed against Respondent alleging undue delay in processing.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(h).

Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days from acceptance of claim. Here, the claim was accepted on 2/24/03 as evidenced by the claim file activity log notes. Payment of this claim was required by 3/26/03. The balance due the insured on the total loss of this claim was not paid until 4/23/03. Therefore, a violation of this regulation has occurred.

On June 9, 2003, the Department notified Respondent of the above noted violation.

92. Regarding: MICHAEL M SILVA CSB-5919923

Policy Number: 96-014498-30-09

Claim Number: 35-116309

On May 1, 2003, a complaint was filed against Respondent alleging undue delay in processing a medical payment claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)3.

1 After an inquiry by this Department, a review of the claim file was conducted. It was found that
2 the necessary information to process the claim was obtained on February 11, 2003.

3 Unfortunately, this information was overlooked and subsequent requests for the same information
4 were sent to the complainant. Once the information was discovered in the file, an additional
5 payment was processed.

6
7 On July 8, 2003, the Department notified Respondent of the above noted violation.
8

9
10 93. Regarding: CARLOS FRANKLIN BELL-OUTLAW CSB-5922299

11 Claim Number: 1001857797

12 Type of Coverage: Auto-Private Passenger

13 Insured: PAUL SIMMONDS
14

15 On 4/11/03, a complaint was filed against Respondent alleging undue delay in processing.
16

17 An investigation by the Department found Respondent to be in noncompliance with California
18 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
(California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
19 2695.5(e)(1), 2695.5(e)(2), 2695.5(e)(3).

20 Section 2695.5(e)(1) requires an insurer to immediately, but in no more than 15 days from receipt
21 of the claim, acknowledge receipt of the claim to the claimant. A reply was due by 9/3/02, but this
22 was not done until 9/9/02 when an estimate was requested from the claimant. Therefore, one (1)
23 violation of this section has occurred.
24

25 Section 2695.5(e)(2) requires an insurer to immediately , but in no more than 15 calendar days
26 upon receiving notice of claim, provide to the claimant necessary forms, instructions and
27 reasonable assistance, including but not limited to, specifying the information the claimant must
28 provide for proof of claim. The claimant was not asked to provide a copy of the estimate nor was

one requested by Respondent, until 9/9/02. Therefore, one (1) violation of this regulation has occurred.

Section 2695.5(e)(3) requires an insurer to immediately , but in no more than 15 calendar days upon receiving notice of claim, begin any necessary investigation of the claim. The claim was received on 8/19/02 and according to the 9/11/02 claim notes the assignment of the case and the commencement of the investigation did not occur until 9/6/02. Therefore, one (1) violation of this regulation has occurred.

On May 6, 2003, the Department notified Respondent of the above noted violation.

94. Regarding: PAM FRANKLIN CSB-5923113
Policy Number: 95-15663-06-28
Claim Number: 1002865221

On April 24, 2003, a complaint was filed against Respondent alleging undue delay in processing a claim.

During our investigation the Department found Respondent to be in noncompliance the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(a).

In reference to Section 2695.5(a), this Department sent letters to Respondent on April 29, 2003 and May 7, 2003 requesting a copy of the complete claim file. A response was considered late on May 24, 2003 and June 2, 2003 respectively. We were not sent a copy of the claim file in reply to either letter. Therefore, two violations of this regulation occurred.

On May 16, 2003, the Department notified Respondent of the above noted violation.

1
2 95. Regarding: KATHY MORUA CSB-5927435
3 Policy Number: 0913614077
4 Claim Number: 6149662, 6115841
5 Insured: LUPE MORUA

6 On 5/2/03 a complaint was filed against Respondent alleging undue delay in processing.

7 An investigation by the Department found Respondent to be in noncompliance with California
8 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
9 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
10 2695.7(b) and 2695.5(a).

11
12 Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from "proof
13 of claim". Here, proof of claim was received by Respondent on 8/21/01 in the form of the
14 8/21/01 inspection by American Leak Detection. This claim was required to be accepted or
15 denied, or notice sent per 2695.7(c)(1), no later than 10/1/01. The claim was not accepted until
16 2/13/02 as evidenced by the letter and payment to the insured. Therefore, a violation of this
17 regulation has occurred.

18
19 Section 2695.5(a) requires a licensee, upon receiving any written or oral inquiry from the
20 Department of Insurance concerning a claim, to immediately, but in no event more than twenty-
21 one (21) calendar days of receipt of that inquiry, furnish the Department of Insurance with a
22 complete written response based on the facts as then known by licensee. A complete written
23 response addresses all issues raised by the Department of Insurance in its inquiry and includes
24 copies of any documentation and claim files requested. Our department sent letters to Respondent
25 dated 5/6/03 requesting complete responses regarding the status of this claim and a copy of the
26 complete claim file. The incomplete copy of the claim file was received in our department until
27 5/21/03(no notes or correspondence from the 7/17/01 and 8/16/01 dates of loss). Therefore, one
28 (1) violation of this regulation has occurred.

On June 9, 2003, the Department notified Respondent of the above noted violation.

96. Regarding: STANLEY SILVER CSB-5927532
Claim Number: 25-105490

On April 30, 2003, a complaint was filed against Respondent alleging that a claim has been improperly denied.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(1).

Section 790.03(h)(1) prevents insurance companies from misrepresenting facts or policy provision. Here, the loss occurred on 3/24/02, Farmers Insurance claimed that the expiration of the Statute of Limitation occurred on March 24, 2003. CCP 335.1 (SB688) has extended the Statute of Limitations to two years for a loss which occurred on 3/24/02. Therefore, a violation of this code has occurred.

On July 31, 2003, the Department notified Respondent of the above noted violation.

97. Regarding: JOAN GLASGOW CSB-5927813
Policy Number: 95-0102106912
Claim Number: F6-144493

On 5/21/03, a complaint was filed against Respondent alleging unfair denial of medical benefits.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section

2695.3(b)(2) and 2695.7(h).

Section 2695.3(b)(2) requires every insurer to assist the Department of Insurance in the review of claim files by recording in the file the date that the licensee received, date(s) the licensee processed and date the licensee transmitted or mailed every material and relevant document in the file. The date that Respondent received the claim for medical benefits from Delta Health Systems for date of service 11/12/01 was not documented in the claim file. Therefore, a violation of this section has occurred.

Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days from acceptance of claim. Here, two claims for medical benefits were received on 11/21/01 and 12/18/01 as evidenced by the claim file and activity notes. Payments of these claims were required by 12/21/01 and 1/17/02 respectively. The claims were not paid until 1/3/02 and 2/25/02. Therefore, two (2) violations of this regulation have occurred.

On July 30, 2003, the Department notified Respondent of the above noted violation.

98. Regarding: KAROLIN CHALABI CSB-5928057
Policy Number: 15654-48-66
Claim Number: 1002000307-1-5

On 5/5/03, a complaint was filed against Respondent alleging unfair disallowance of a portion of the medical providers' bills.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(b).

Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from "proof of claim". Here, proof of claim was received by Respondent on 2/4/03 in the form of a medical bill dated 2/2/03. This claim was required to be accepted or denied, or notice sent per 2695.7(c)(1), no later than 3/16/03. The claim was not accepted until 3/26/03 as evidenced by the 3/26/03 letter and payment. Therefore, a violation of this regulation has occurred.

On May 28, 2003, the Department notified Respondent of the above noted violation.

99. Regarding: S. RUTH BROGDON CSB-5928116
Claim Number: 70 180287
Insured: MILLER

On 5/6/03 a complaint was filed against Respondent alleging undue delay in processing, and unfair offer of settlement.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(e)(1), 2695.7(b), 2695.7(h).

Section 2695.5(e)(1) requires an insurer to immediately, but in no more than 15 days from receipt of the claim, acknowledge receipt of the claim to the claimant. A reply was due by 8/13/02 and the claimant was not contacted until Respondent mailed them a letter on 10/8/02. Therefore, a violation of this section has occurred.

Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from "proof of claim". Here, proof of claim was received by Respondent on 7/29/02 in the form of a letter and bills from the claimant. This claim was required to be accepted or denied, or notice sent per 2695.7(c)(1), no later than 9/7/02. The claim was not accepted until 10/8/02 as evidenced by the 10/8/02 letter to the claimant. Therefore, a violation of this regulation has occurred.

1 Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days
2 from acceptance of claim. Here, the claim was accepted on 10/8/02. Payment of this claim was
3 required by 11/7/02. The offer of payment was not made until 11/13/02. Therefore, a violation of
4 this regulation has occurred.

5
6 On June 3, 2003, the Department notified Respondent of the above noted violation.

7
8 100. Regarding: CATHY BOGGS CSB-5928886
9 Claim Number: 59195797
10 Insured: BETTY JOAN WIERSMA

11 On 5/5/03, a complaint was filed against Respondent alleging undue delay in processing.
12 An investigation by the Department found Respondent to be in noncompliance with California
13 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
14 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
15 2695.5(e)(1), 2695.5(e)(2), 2695.5(e)(3), 2695.7(b), and 2695.7(c)(1).

16
17 Section 2695.5(e)(1) requires an insurer to immediately, but in no more than 15 days from receipt
18 of the claim, acknowledge receipt of the claim to the claimant. The claimant submitted a written
19 claim for Bodily Injury dated 2/26/03 considered received on 3/3/03. A reply was due by 3/18/03
20 and the claimant was not contacted until Respondent mailed them a contact letter on 5/22/03.
21 Therefore, a violation of this section has occurred.

22
23 Section 2695.5(e)(2) requires an insurer to immediately, but in no more than 15 calendar days
24 upon receiving notice of claim, provide to the claimant necessary forms, instructions and
25 reasonable assistance, including but not limited to, specifying the information the claimant must
26 provide for proof of claim. The claim was reported on 3/3/03 as per the above. There is no record
27 of Respondent providing any forms, instructions or requesting any information from the claimant.
28 Therefore, a violation of this section has occurred.

Section 2695.5(e)(3) requires an insurer to immediately, but in no more than 15 calendar days upon receiving notice of claim, begin any necessary investigation of the claim. The claim was received on 3/3/03 and Respondent did not contact the claimant and initiate an investigation until 5/22/03. Therefore, a violation of this section has occurred.

Section 2695.7 (b) requires an insurer, upon receiving proof of claim, to immediately, but in no more than forty (40) calendar days later, accept or deny the claim, in whole or in part. Respondent received proof of claim in the form of a subrogation demand on 9/4/02. Respondent did not make a decision to accept liability until 5/2/03. Therefore, a violation of this section has occurred.

Section 2695.7(c)(1) requires every insurer to provide the claimant with written notice every 30 calendar days if more time is required than what is allotted in subsection 2695.7(b) to determine whether a claim should be accepted or denied.

The written notice shall specify any additional information the insurer requires in order to make a determination and state any continuing reasons for the insurer's inability to make a determination. Written notices were due, but not sent by 11/30/02, 12/3/02, 1/2/03, 2/1/03, 3/3/03, and 4/2/03. Therefore, six (6) violations of this regulation have occurred.

On July 22, 2003, the Department notified Respondent of the above noted violation.

101. Regarding: KATHLEEN WALL CSB-5930092
Claim Number: 100 264 4073

On 5-14-03 a complaint was filed against Respondent alleging an unfair settlement offer on the claim.

1 An investigation by the Department found Respondent to be in noncompliance with California
2 Insurance Code Section 790.03(h)(3) for failure to adopt and implement standards for the prompt
3 investigation and processing of claims. The claim checks were delayed from 5-6-03 to 5-28-03
4 because of a computer problem. In addition, two extra contractual weeks of rental were extended
5 because the claim was not advanced as it should have been in March 2003. This constitutes one
6 violation of 790.03(h)(3).

7
8 On July 21, 2003, the Department notified Respondent of the above noted violation.

9
10 102. Regarding: DAN GATES CSB-5930879

11 Policy Number: 118927396

12 Claim Number: 21-151207

13 On 5-14-03 a complaint was filed against Respondent alleging undue delay in processing his
14 claim.

15 An investigation by the Department found Respondent to be in noncompliance with California
16 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
17 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
18 2695.5(b) for failure to respond to the insured's certified letter of 4-3-03, received and signed for
19 4-10-03, within 15 calendar days. The letter was not responded to until 6-19-03. This constitutes
20 one violation of 2695.5(b).

21 On June 23, 2003, the Department notified Respondent of the above noted violation.

22
23 103. Regarding: NANCY NGUYEN CSB-5931682

24 Policy Number: 0151115575

25 Claim Number: 59-193195

26 On 7-1-03, a complaint was filed against Respondent alleging undue delay in processing a claim.

27 An investigation by the Department found Respondent to be in noncompliance with California
28

Insurance Code Section 790.03(h)(5) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(h).

Section 790.03(h)(5) requires an insurer to effectuate fair and equitable settlement of claims in which liability has become reasonably clear. The records indicate the IMR submitted evidence to Respondent on 6-12-03 supporting additional payment of the claim. At the request of this Department, the file was reviewed and it was determined the additional payment should have been processed. A more comprehensive investigation would have resulted in payment of the claim prior to the Department's intervention. Therefore, a violation of this section has occurred.

Section 2695.7(h) requires an insurer to tender payment of claim no later than 30 calendar days from acceptance of claim. Based on documentation in the claims file, additional payment of the claim was approved on 6-12-03. Due to an oversight, the additional payment was not processed until 7-22-03. Therefore, a violation of this section has occurred.

On December 22, 2003, the Department notified Respondent of the above noted violation.

104. Regarding: DAVID MILARE CSB-5933761
Policy Number: 9515210-93-17
Claim Number: F6150825
Insured: JOSE SALAZAR

On 5-30-03, a complaint was filed against Respondent alleging undue delay in processing a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(b) and 2695.3(b)(2).

1 Section 2695.7(b) requires an insurer to provide notice to a claimant whenever the insurer is
2 unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this
3 case, proof of claim was received by Respondent on 12-09-02 as indicated in the claims
4 investigation log. The claim was required to be accepted, denied, or notice sent why the
5 investigation of the claim was going to be continued per 2695.7(c)(1) no later than 1-18-03. No
6 notice was ever sent to the claimant advising of the delay. Therefore, a violation of this
7 regulation has occurred.

8
9 Section 2695.3(b)(2) requires an insurer to record dates documents are received. The estimate of
10 repairs submitted to Respondent by the claimant, as proof of loss, was not date stamped.
11 Therefore, a violation of this section has occurred.

12
13 On June 30, 2003, the Department notified Respondent of the above noted violation.

14
15 105. Regarding: NICHOLAS BRIAN KING CSB-5935308
16 Policy Number: 96 15631 92 02
17 Insured: CRYSTAL PALAR

18 On 6/3/03, a complaint was filed against Respondent alleging undue delay in having a claim
19 processed.

20
21 An investigation by the Department found Respondent to be in noncompliance with California
22 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
23 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
24 2695.7(b) and Section 2695.7(c)(1).

25
26 Section 2695.7(b) requires an insurer to accept or deny a claim no later than
27 40 days from "proof of claim". In this case, proof of claim was received by Respondent on
28 2/28/03 in the form of the claimant's medical bills and a completed medical questionnaire.

Respondent was required to accept or deny (or notice sent) by 4/9/03. However, the claim was not accepted until 5/29/03 as evidenced by the payment and Respondent's letter dated 6/20/03. Therefore a violation of Section 2695.7(b) has occurred.

Section 2695.7(c)(1) requires an insurer to provide notice to a claimant whenever the insurer is unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In spite of the fact that, Respondent's representative attempted to contact the claimant on 4/17/03, Respondent was required to accept or deny the claim by 5/9/03. No notice was ever sent to the claimant advising of the delay. According to Respondent, no further attempts to contact the claimant and/or address his medical claim were made until 5/29/03. Therefore, a violation of Section 2695.7(c)(1) has occurred.

On July 22, 2003, the Department notified Respondent of the above noted violation.

106. Regarding: WAYNE SCHRAMM CSB-5935389
Policy Number: 0148469865
Claim Number: 1003055230-1-3

On June 10, 2003, a complaint was filed against Respondent alleging disagreement with Respondent's total loss evaluation.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.8(b).

In the Department's opinion, a Condition Adjustment or Baseline Adjustment deduction may not be used when comparing a Loss Vehicle to a Comparable Vehicle which has not been inspected for condition. There is no evidence to support whether the un-inspected comparable vehicles are

1 in better or worse condition than the Loss Vehicle. Therefore, any deduction using this method is
2 inappropriate and not permitted by this Department.

3
4 Also, even when the comparable vehicles listed in the valuation are noted as being inspected, a
5 deduction for condition is not appropriate unless the Loss Vehicle is established to be in below
6 average condition, as evidenced by a complete inspection report of the loss vehicle. Absent an
7 inspection report for each of the comparable vehicles used in the valuation and absent clear
8 statistical support that the pre-condition-adjustment-value represents a vehicle in superior
9 condition to the loss vehicle, a deduction for condition is not permitted.

10
11 The result of this error in the calculation method, as described above, renders the final settlement
12 amount inaccurate. It is the opinion of this Department that this method is not in compliance with
13 the Fair Claims Settlement Practices Regulations, Section 2695.8(b) et. seq.

14
15 On August 20, 2003, the Department notified Respondent of the above noted violation.

16
17 107. Regarding: MICHAEL WRIGHT CSB-5935572

18 Policy Number: 161105050

19 Claim Number: 1002749101-1-1

Insured: MICHAEL D. DUGGONS

20 On 6/12/03, a complaint was filed against Respondent alleging that Respondent had made an
21 unreasonable settlement offer regarding this claim.

22
23 An investigation by the Department found Respondent to be in noncompliance with California
24 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
25 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
26 2695.7(g).

1 Section 2695.7(g), requires that no insurer shall attempt to settle a claim by making a settlement
2 offer that is unreasonably low. Respondent offered to settle this claim with the claimant for his
3 total loss vehicle on 3/17/03 in the amount of \$6645.92. The claimant told Respondent on that
4 same date that the settlement offer was too low and rejected it. The claimant then proceeded to
5 document that the market value of his vehicle was considerably more than what Respondent was
6 offering. Respondent did not change its settlement offer and on 4/28/03, mailed a draft to the
7 claimant for the original amount offered. The claimant then presented Respondent with additional
8 documentation for other vehicles for sale that were comparable to his. Respondent agreed with
9 the claimant on 5/12/03 that the original settlement offer was too low. On 5/16/03, Respondent
10 sent the claimant an additional payment in the amount of \$4108.48 for his vehicle. Because
11 Respondent initially made a substantially low settlement offer on the claimant's vehicle and did
12 not pay the correct amount owed until approximately 45 days after the initial low settlement offer,
13 a violation of this section has occurred.

14
15 On June 26, 2003, the Department notified Respondent of the above noted violation.

16
17 108. Regarding: DONALD GROOM CSB-5936782
18 Policy Number: 15999120
19 Claim Number: 07-137993
20 Insured: ICHIRO NAKAMISHI

21 On June 13, 2003, a complaint was filed against Respondent alleging undue delay in processing
22 of a claim.

23 An investigation by the Department found Respondent to be in noncompliance with California
24 Insurance Code Section 790.03(h)(1) and the Fair Claims Settlement Practices Regulations
25 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
26 2695.3(b)(1) and 2695.5(b).
27
28

1 Section 790.03(h)(1) prohibits insurance companies from misrepresenting facts or policy
2 provisions. Here, Farmers Insurance indicated in its April 6, 2003 letter that the Statute of
3 Limitations expired on June 6, 2003. Senate Bill 688 extended the Statute of Limitation to two
4 years. Therefore, Mr. Groom's Statute of Limitation expires on May 9, 2004 rather than on June
5 6, 2003.

6
7 Section 2695.3(b)(1) requires the claim data to be accessible, legible and retrievable. Here, some
8 of the log notes are improperly dated, which hindered our ability to track the actual progress of
9 the claim. Therefore, a violation of this regulation has occurred.

10
11 Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably
12 suggests that a response is expected, immediately, but in no event more than 15 calendar days
13 after receipt of that communication. The claimant sent a communications to Respondent on
14 August 15, 2002. A response to this communication was due no later than August 30, 2002. The
15 response to the communication was not sent until September 20, 2002. On December 29, 2002
16 Farmers received a letter from the claimant. A response to this communication was due no later
17 than January 13, 2003. No response was ever sent. On March 10, 2003 Farmers received a letter
18 from the claimant. A response to this communication was due no later than March 25, 2003. The
19 response to this communication was not sent until April 6, 2003. The claimant sent
20 communications to Respondent on April 29, 2003. A response to this communication was due no
21 later than May 14, 2003. No response to this communication was ever sent. The claimant sent a
22 communications to Respondent on May 20, 2003. A response to this communication was due no
23 later than June 4, 2003. No response was ever sent. The claimant sent a communication to
24 Respondent on July 15, 2003. A response to this communication was due no later than July 30,
25 2003. No response was ever sent. Therefore, six violations of this regulation have occurred.

26
27 On January 23, 2004, the Department notified Respondent of the above noted violation.
28

109. Regarding: LOUIS HARRIS CSB-5936909
Policy Number: 29-14281-80-98
Claim Number: 72124645

On 6-16-03, a complaint was filed against Respondent alleging undue delay in processing a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.3(a), 2695.3(b)(1) and 2695.3(b)(3).

As indicated in Respondent's letter dated 6-30-03, the claims file could not be located for our examination. Therefore, the following violations have occurred:

Section 2695.3(a) requires every licensee to maintain a claim file which contains all documents, notes and work paper which reasonably pertain to each claim in such detail that pertinent events and the dates of the events can be reconstructed and licensee's actions pertaining to the claim can be determined.

Section 2695.3(b)(1) requires every licensee to maintain claim data that is accessible, legible and retrievable.

Section 2695.3(b)(3) requires every licensee to maintain hard copy files or maintain claim file that are accessible, legible and capable of duplication to hard copy; files shall be maintained for the current year and the preceding four years.

On September 17, 2003, the Department notified Respondent of the above noted violation.

110. Regarding: MANUEL CASANOVA CSB-5937946

1 Claim Number: B4 150040
2 Insured: Eva Cabrera

3
4 On July 8, 2003, a complaint was filed against Respondent alleging an undue delay in processing
5 the above-captioned claim among other things.

6 An investigation by the Department found Respondent to be in noncompliance with California
7 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
8 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
9 2695.7(h).

10 Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days
11 from acceptance of claim. Here, the claim was accepted on September 3, 2002 as evidenced by
12 the claim file log note and a letter of the same date addressed to the complainant. Payment of the
13 undisputed amount of this claim was therefore required on or before October 3, 2002. However,
14 the claim was not paid until June 4, 2003. Therefore, a violation of this regulation has occurred.

15
16 On September 11, 2003, the Department notified Respondent of the above noted violation.
17

18
19 111. Regarding: PATRICK DOUGLAS CSB-5938382
20 Policy Number: 9516066-02-70
21 Claim Number: 100295
Insured: TONIA LAVINE

22 On 7-11-03 a complaint was filed against Respondent alleging undue delay in processing the
23 claim.
24

25 An investigation by the Department found Respondent to be in noncompliance with California
26 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
27 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
28 2695.5(a), for failure to respond to the Department of Insurance inquiry dated 8-13-03 within 21

1 days. The response, dated 9-19-03, was received 9-22-03. This constitutes one violation of
2 2695.5(a).

3
4 On September 30, 2003, the Department notified Respondent of the above noted violation.

5
6 112. Regarding: ALEXANDER M. YERKES CSB-5938544
7 Insured: MELINDA WARINO

8
9 On date 06-16-03, a complaint was filed against Respondent alleging an undue delay on the part
10 of Respondent in communicating and settling the claim for damage to his vehicle. An
11 investigation by the Department found Respondent to be in noncompliance with California
12 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
13 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
14 2695.7(h).

15
16 Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days
17 from acceptance of claim. Here, according to documents in the claim file, Respondent inspected
18 the vehicle and it was deemed a total loss on 05-19-03. Respondent had accepted liability by 05-
19 05-03. Complete payment of the claim was required by 06-18-03, with payment being considered
20 late on 06-19-03. However, Respondent did not issue any payments until 06-27-03. In the
21 reevaluation to the complainant dated 07-01-03, Respondent acknowledged unduly delaying the
22 processing of this claim. Therefore, one violation of this regulation has occurred.

23
24 On March 2, 2004, the Department notified Respondent of the above noted violation.

25
26 113. Regarding: FADI HACHEM CSB-5939929
27 Policy Number: 145629866
28 Claim Number: 1002687665

1 On 6-19-03, a complaint was filed against Respondent alleging undue delay in the processing of
2 the above-captioned claim.

3
4 An investigation by the Department found Respondent to be in noncompliance with California
5 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
6 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
7 2695.7(b).

8
9 Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from "proof
10 of claim". Here, proof of claim was received by Respondent on 2-25-03 when Respondent
11 received an estimate for repairs concerning the complainant's vehicle via fax. The claim was
12 required to be accepted or denied, or notice sent per 2695.7(c)(1), no later than 4-7-03. The claim
13 was not accepted until 4-15-03 (via the letter of that date), when Respondent sent the complainant
14 correspondence offering a settlement. The file contains no delay/status letters to the complainant
15 after Respondent received proof of claim on 2-25-03. In addition, in the reevaluation letter to the
16 complainant in response to this complaint (dated 7-21-03), Respondent stated "review of our file
17 indicates the claim was not handled in a timely manner. We apologize for our delay and for any
18 inconvenience that may have caused." Therefore, one violation of Section 2695.7(b) CCR has
19 occurred.

20
21 On July 22, 2003, the Department notified Respondent of the above noted violation.

22
23 114. Regarding: R. NICHOLAS HANEY CSB-5940323
24 Claim Number: 72143351

25
26 On June 25, 2003, a complaint was filed against Respondent alleging undue delay in processing
27 the claim.

1 An investigation by the Department found Respondent to be in noncompliance with California
2 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
3 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
4 2695.3(b)(1).

5
6 Section 2695.3(b)(1) requires that insurers maintain claim data that are accessible, legible and
7 retrievable for examination. The letter of July 17, 2003 indicates that the claim file data between
8 September 6, 2002 and April 11, 2003 can not be located. Therefore a violation of this regulation
9 has occurred.

10
11 On September 18, 2003, the Department notified Respondent of the above noted violation.

12
13 115. Regarding: SHAWNA BROWN CSB-5940348
14 Policy Number: 95-15597 25 15
15 Claim Number: 1003022314

16 On July 1,2003, a complaint was filed against Respondent alleging undue delay in the processing
17 of the above claim.

18
19
20 An investigation by the Department found Respondent to be in noncompliance with California
21 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
22 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
23 2695.5(a).

24
25 In reference to Section 2695.5(a), this Department sent a letter to Respondent on August 11,
26 2003 and a response was considered late on September 1, 2003. The response was not received in
27 our office until September 22,2003, therefore, a violation of this regulation has occurred.

On February 6, 2004, the Department notified Respondent of the above noted violation.

116. Regarding: JUDY RENEE FOWLER CSB-5940639

Policy Number: 99-0155142152

Claim Number: 1002079506

On July 2, 2003, a complaint was filed against Respondent alleging undue delay in the processing of a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(b).

Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably suggests that a response is expected, within 15 calendar days after receipt of that communication. The claimant sent a facsimile dated May 23, 2003 to Respondent which records indicate was received on May 24, 2003 and a second facsimile dated June 9, 2003 which records indicate was received on the same date it was sent. A response to the first inquiry was due no later than June 8, 2003 and a response was due no later than June 24, 2003 on the second facsimile. Records indicate no response was ever sent. Therefore, two violations of this regulation have occurred.

On October 24, 2003, the Department notified Respondent of the above noted violation.

117. Regarding: THERI LEWIS CSB-5941789

Policy Number: 0155141779

Claim Number: 1002360232

On 7-10-03 a complaint was filed against Respondent alleging a portion of the claim was not

1 paid.

2
3 An investigation by the Department found Respondent to be in noncompliance with California
4 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
5 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
6 2695.5(b) because letters from the insured dated 4-2-03 and 5-13-03 were not answered within 15
7 calendar days. The letters were not answered until intervention by this office. This constitutes two
8 violations of 2695.5(b).

9
10 On July 29, 2003, the Department notified Respondent of the above noted violation.

11
12 118. Regarding: FRED U. HAMMETT CSB-5942016
13 Policy Number: 99-0141699876
14 Claim Number: 99-0141699876
15 Insured: KATHLEEN ALLE

16 On 6-25-03 a complaint was filed against Respondent alleging undue delay in processing the
17 medical payment claim.

18 An investigation by the Department found Respondent to be in noncompliance with California
19 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
20 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
21 2695.5(b) because Attorney Hammett's letter dated 6-6-03 and received in the office the same
22 day via fax was not answered within 15 calendar days. No response was provided until after
23 intervention by this office. This constitutes one violation of 2695.5(b).

24 On July 31, 2003, the Department notified Respondent of the above noted violation.

25
26 119. Regarding: FERNANDO PENA CSB-5942234
27 Claim Number: 1003155530
28

1 On 7/15/03, a complaint was filed against Respondent alleging that Respondent unduly delayed
2 the handling of this claim and had not made a reasonable offer of settlement.

3
4 An investigation by the Department found Respondent to be in noncompliance with California
5 Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations
6 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
7 2695.3(a).

8
9 Section 790.03(h)(3) requires an insurer to adopt and implement standards for the prompt
10 investigation and processing of claims. This theft loss occurred on 5/18/03 and was reported to
11 Respondent on 5/20/03. The claim file reflects that the insured vehicle was a total loss and was
12 recovered completed burned-out on 5/22/03. The claim file reflects that Respondent required a
13 signed proof of loss statement from the insured in order to complete its handling of this claim.
14 However, it was noted in the claim file that as of 6/17/03, the insurance agent for this policy had a
15 copy of the signed proof of loss statement from the insured. Respondent did not attempt to obtain
16 a copy of the signed proof of loss statement from this insurance agent until 7/22/03. Also, it is
17 noted in the claim file that although this vehicle was recovered on 5/22/03, this vehicle was not
18 inspected by Respondent until 7/22/03 and a valuation estimate was not completed by Respondent
19 until 7/22/03. The 7/23/03 claim log notes reflect that although this was a total loss claim, the
20 claim representative assigned to this claim was out of the office for a period of fourteen
21 consecutive days (14 days) during the processing of this claim and this claim was not temporarily
22 assigned to another claim representative. Because this claim was not promptly investigated and
23 processed, a violation of this section has occurred.

24
25 Section 2695.3(a) states that every licensee's claim files shall be subject to examination by the
26 Commissioner or by his or her duly appointed designees. These files shall include all documents,
27 notes and work papers (including copies of all correspondence) which reasonably pertain to each
28 claim in such detail that pertinent events and the dates of the events can be reconstructed and the

licensee's actions pertaining to the claim can be determined. The copy of the claim file that Respondent provided to our department did not include a copy of letters that Respondent documented in the activity log notes that were sent to the insured on 6/10/03 and 6/11/03. Therefore, a violation of this section has occurred.

On July 30, 2003, the Department notified Respondent of the above noted violation.

120. Regarding: RENE GUTIERREZ CSB-5942649
Claim Number: 1002868520
The insured: STEPHEN R. BATES

On 7/21/03, a complaint was filed alleging that Respondent had unduly delayed the handling of this claim and that Respondent had not made a reasonable offer of settlement.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections 2595.5(e)(1), 2695.5(e)(2) and 2695.7(h).

Section 2695.5(e)(1) requires an insurer to immediately, but in no more than 15 days from receipt of the claim, acknowledge receipt of the claim to the claimant. Respondent received notice of this claim on 3/26/03. An acknowledgement, either by speaking to the claimant or sent by Respondent in writing, was due to be made by 4/10/03, but was not. Respondent did not speak to the claimant until 4/11/03. Therefore, a violation of this section has occurred.

Section 2695.5(e)(2) requires an insurer to immediately , but in no more than 15 calendar days upon receiving notice of claim, provide to the claimant necessary forms, instructions and reasonable assistance, including but not limited to, specifying the information the claimant must provide for proof of claim. Respondent received notice of this claim on 3/26/03. Any necessary

forms, instructions and/or any reasonable assistance was due to be provided to the claimant by Respondent by 4/10/03, but was not. Respondent did not speak to the claimant until 4/11/03. Therefore, a violation of this section has occurred.

Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days from acceptance of claim. Respondent accepted coverage for the claimant's loss in a letter sent to the claimant on 6/2/03. Payment of the undisputed amount of the claim that Respondent believed was owed was due to be made by 7/2/03, but was not. Therefore, a violation of this section has occurred.

On August 13, 2003, the Department notified Respondent of the above noted violation.

121. Regarding: ROSALYN GUTIERREZ CSB-5945582
Policy Number: 96 15103 82 03
Claim Number: M5-126334

On August 19, 2003, a complaint was filed against Respondent alleging undue delay in the processing of a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(a).

In reference to Section 2695.5(a), this Department sent an inquiry to the insurance Respondent dated August 19, 2003 and a response and the claim file were due on September 13, 2003. A letter dated September 4, 2003 was received from the insurance Respondent indicating the claims center was unable to locate the claim file and that the file would be forwarded under separate cover. We then sent a follow-up letter to Respondent dated September 29, 2003. The claim file

1 was received in our office on October 16, 2003. Therefore a violation of this regulation has
2 occurred.

3
4 On January 12, 2004, the Department notified Respondent of the above noted violation.

5
6 122. Regarding: JOANNE THATCHER CSB-5947705
7 Policy Number: 091628596

8 On 7/29/03, a complaint was filed against Respondent requesting Respondent to pay her claim as
9 two of Respondent's adjusters concluded that it was a covered loss. However, the claim was later
10 denied.

11
12 An investigation by the Department found Respondent to be in noncompliance with California
13 Insurance Code Section 790.03(h)(5).

14
15 After intervention by this Department and additional investigation, Respondent accepted the
16 claim in its entirety. Based on the claim file notes dated 9/23/03, Respondent conducted a re-
17 inspection of the claimant's damages and discovered additional damages that were originally not
18 seen, and/or overlooked. Therefore, Respondent has violated California Insurance Code
19 790.03(h)(5).

20
21 On January 8, 2004, the Department notified Respondent of the above noted violation.

22
23
24 123. Regarding: STAN FREEMAN CSB-5948228
25 Claim Number: 1001821893-1-3

26 On August 4, 2003, a complaint was filed against Respondent alleging undue delay in the
27 processing of a claim.

28 An investigation by the Department found Respondent to be in noncompliance with California

1 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
2 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
3 2695.5(e)(1) and 2695.5(e)(3).

4
5 Sections 2695.5(e)(1) and 2695.5(e)(3) require an insurer to acknowledge the claim and begin the
6 investigation no later than 15 calendar days from 'notice of claim'. Notice of claim was received
7 by Respondent on April 4, 2003. Respondent was required to take action under these regulations
8 no later than April 20, 2003. The required actions were not done until May 15, 2003. Therefore,
9 one violation each of the referenced regulations has occurred.

10
11 On September 22, 2003, the Department notified Respondent of the above noted violation.

12
13 124. Regarding: DORENE ERICKSON CSB-5948581
14 Claim Number: 1003337129

15
16 On August 5, 2003 a complaint was filed against Respondent alleging unsatisfactory settlement
17 offer.

18
19 An investigation by the Department found Respondent to be in noncompliance with California
20 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
21 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
22 2695.8(b).

23
24 Section 2695.8(b) mandates companies to fairly adjust for the differences between the insured's
25 vehicle and comparable vehicles. Nevertheless, the determination of value must be supported by
26 documentation. Here, no supporting documentation has been provided for the baseline deduction.
27 As such, a violation of this regulation has occurred.

On September 23, 2003, the Department notified Respondent of the above noted violation.

125. Regarding: MEGHAN WAGNER CSB-5949189
Claim Number: 1002632014

On 8/4/03, a complaint was filed against Respondent alleging undue delay and unfair denial of a portion of her claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(h).

Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days from acceptance of claim. Here, the claim was accepted on 2/11/03 as evidenced by the claim file activity log notes. The rental expense bill was received on 4/5/03 but was not paid until 7/21/03. Payment of the undisputed amount of this claim was required by 5/5/03. Therefore, a violation of this regulation has occurred.

On December 5, 2003, the Department notified Respondent of the above noted violation.

126. Regarding: THUAN TRAN CSB-5952038
Policy Number: 0139780754
Claim Number: 1003194146

On 8/8/03, a complaint was filed against Respondent alleging undue delay in processing.

An investigation by the Department found Respondent to be in noncompliance with California

1 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
2 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
3 2695.7(h).

4
5 Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days
6 from acceptance of claim. Here, the claim was accepted on 6/13/03 as evidenced by the
7 settlement offer. Payment of this claim was required by 7/13/03. The claim was not paid until
8 8/7/03. Therefore, a violation of this regulation has occurred.

9
10 On October 3, 2003, the Department notified Respondent of the above noted violation.

11
12 127. Regarding: STEPHEN LAFITE CSB-5952261
13 Claim Number: 1003135056

14
15 On August 22, 2003 complaint was filed against Respondent alleging undue delay in processing
16 of a claim.

17
18 An investigation by the Department found Respondent to be in noncompliance with California
19 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
20 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
21 2695.3(a).

22
23 Section 2695.3(a) requires the claim files to contain all documents, notes and work papers. Here,
24 the file provided did not include a copy of the CCC evaluation. Therefore, a violation of this
25 regulation has occurred.

26
27 On October 31, 2003, the Department notified Respondent of the above noted violation.

1 128. Regarding: JIM SLAUGHTER CSB-5952454
2 Claim Number: 1002766414-1

3 On August 26, 2003, a complaint was filed against Respondent alleging undue delay in
4 processing of a claim.

5
6 An investigation by the Department found Respondent to be in noncompliance with California
7 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
8 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
9 2695.7(b) and 2695.7(c)(1).

10
11 Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from "proof
12 of claim". Here, proof of claim was received by Respondent on March 10, 2003 in the form of an
13 estimate. This claim was required to be accepted or denied, or notice sent per 2695.7(c)(1), no
14 later than April 19, 2003. Therefore, a violation of this regulation has occurred.

15 Section 2695.7(c)(1) requires an insurer to provide notice to a claimant whenever the insurer is
16 unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this
17 case, proof of claim was received by Respondent on March 10, 2003 in the form of an estimate.
18 The claim was required to be accepted or denied (or notice sent) by April 19, 2003. No notice
19 was ever sent to the claimant advising of the delay. Also, continuing notices were required every
20 30 calendar days. Here, the continuing notices were required no later than May 19, June 18, July
21 18 and August 17, 2003. No continuing notice was ever sent to the claimant. A notice was sent
22 on September 12, 2003; however, a continuing notice was due October 12, 2003. No continuing
23 notice was ever sent to the claimant. Therefore, five violations of this regulation have occurred.

24
25 Insurance Code Section 880 requires every insurer to conduct its business in this state in its own
26 name (please see the attached copy for information regarding Section 880). Respondent sent a
27 letter to the insured dated 7/29/03 and two (2) letters dated 8/26/03 which did not identify the
28

1 name of the insurance Respondent that underwrote this policy of insurance (Respondent).

2 Therefore, three (3) violations of this section have occurred.

3
4 On November 19, 2003, the Department notified Respondent of the above noted violation.

5
6 129. Regarding: SASHA ROSSBERG CSB-5954704

7 Claim Number: 1001879142-1-6

8 Insured: CYNTHIA SUDDABY

9 On 9-29-03, a complaint was filed against Respondent alleging Respondent did not make a
10 reasonable offer of settlement on a claim.

11
12 An investigation by the Department found Respondent to be in noncompliance with California
13 Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations
14 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically
15 Section 2695.5(e)(2) and 2695.7(c)(1).

16
17 Section 2695.5(e)(2) requires an insurer to immediately but in no more than 15 calendar days
18 upon receiving notice of claim, provide to the claimant necessary forms, instructions and
19 reasonable assistance specifying the information the claimant must provide for proof of claim.

20 Notice of a bodily injury claim was documented in Respondent's letter on 10-02-02, and
21 reasonable assistance was due no later than 10-17-02. Documentation in the file indicates this did
22 not occur until 10-24-02. Therefore, a violation of this Section has occurred.

23
24 Section 2695.7(c)(1) requires an insurer to provide notice to a claimant whenever the insurer is
25 unable to accept or deny a claim within the timeframe required in Section 2695.7(b). In this case,
26 proof of claim was received by Respondent on 4-10-03 in the form of medical documentation.

27 The claim was required to be accepted, denied, or notice sent why the investigation of the claim
28 was going to be continued per 2695.7(c)(1). Written notification was sent on 4-21-03 advising the

1 claimant she would be contacted after review of documents was completed. However, continuing
2 written notices were required but not sent to claimant advising of the delay on 5-21-03, 6-20-03,
3 and 7-20-03. Respondent sent an offer of settlement on 8-6-03. Therefore, 3 violations of this
4 Section have occurred.

5
6 Section 790.03(h)(3) requires a Respondent to adopt and implement standards for the prompt
7 investigation and processing of claims. Here, the original adjuster leaving Farmers employment
8 caused additional delays. In addition, the second adjuster assigned to the file caused even further
9 delays by leaving Farmers employment as well. Documentation in file indicates the staffing
10 changes caused delays in the continuation of settlement negotiations. Therefore, a violation of
11 this Section has occurred.

12
13 On December 18, 2003, the Department notified Respondent of the above noted violation.

14
15 130. Regarding: ARCHIE DEVEREUX CSB-5956826
16 Policy Number: 131862034
17 Claim Number: 27-89525

18 On 8-19-03, a complaint was filed against Respondent alleging the claim was unfairly denied.
19 An investigation by the Department found Respondent to be in noncompliance with California
20 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
21 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
22 2695.3(a) because the file does not contain all documents. There is no written documentation of
23 telephone calls in the file. This constitutes one violation of 2695.3(a).

24
25 On November 24, 2003, the Department notified Respondent of the above noted violation.

26
27 131. Regarding: RITA FILLER CSB-5956988
28 Claim Number: 1003464273

1
2 On September 21, 2003, a complaint was filed against Respondent alleging that a claim had been
3 improperly denied.

4
5 An investigation by the Department found Respondent to be in noncompliance with California
6 Insurance Code Section 790.03(h)(3).

7
8 Section 790.03(h)(3) requires insurance companies to adhere to standards of adequate
9 investigation and processing of claims. Here, it appears that there was no inspection of either
10 vehicle prior to Farmers initial determination of liability. Therefore, a violation of this code has
11 occurred.

12
13 On December 29, 2003, the Department notified Respondent of the above noted violation.

14
15 132. Regarding: KELLY L. CLIFFORD CSB-5958048
16 Insured: BILL JACKSON
17 Claim Number: 1003324481

18 On September 3, 2003, a complaint was filed against Respondent alleging undue delay in settling
19 a claim for damage to a vehicle.

20
21 An investigation by the Department found Respondent to be in noncompliance with the California
22 Insurance Code, specifically Section 790.03(h)(5).

23
24 A review of the claim file reflects that, on June 30, 2003, Respondent determined its insured was
25 100% liable for the claimant's damages. On July 18, 2003, Respondent was aware that the
26 vehicle was a total loss based on the estimate to repair it and information on its actual cash value.
27 Instead of making a settlement offer at that point, Respondent re-inspected the vehicle again on
28

1 August 15, 2003, thereby delaying settlement of the claim. Respondent did not present the
2 claimant with a settlement offer until September 4, 2003.

3
4 On December 29, 2003, the Department notified Respondent of the above noted violation.

5
6 133. Regarding: GLEN RENNER CSB-5959181
7 Policy Number: 30-15336-11-59
8 Insured: ROBERT CRUZ

9 On September 23, 2003, a complaint was filed against Respondent alleging undue delay in
10 processing of a claim.

11
12 An investigation by the Department found Respondent to be in noncompliance with California
13 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
14 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
15 2695.7(b) and 2695.7(c)(1).

16
17 Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from "proof
18 of claim". Here, proof of claim was received by Respondent on May 12, 2003 in the form of an
19 estimate. This claim was required to be accepted or denied, or notice sent per 2695.7(c)(1), no
20 later than June 21, 2003. Therefore, a violation of this regulation has occurred.

21
22 Section 2695.7(c)(1) requires an insurer to provide notice to a claimant whenever the insurer is
23 unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this
24 case, proof of claim was received by Respondent on May 12, 2003 in the form of an estimate.
25 The claim was required to be accepted or denied (or notice sent) by June 21, 2003. No notice was
26 ever sent to the claimant advising of the delay. Also, continuing notices were required every 30
27 calendar days. Here, the continuing notices were required no later than July 21, August 20 and
28

1 September 19, 2003. No continuing notices were ever sent to the claimant. Therefore, three
2 violations of this regulation have occurred.

3
4 On November 25, 2003, the Department notified Respondent of the above noted violation.

5
6 134. Regarding: VICTOR VASQUEZ CSB-5959308
7 Claim Number: 1003484187-18
8 The insured: BORA SON

9 On 9/17/03, a complaint was filed against Respondent alleging that Respondent unduly delayed
10 the handling of this claim and that Respondent did not make a settlement offer.

11 An investigation by the Department found Respondent to be in noncompliance with California
12 Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations
13 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
14 2695.5(e)(2).

15 Section 790.03(h)(3) requires an insurer to adopt and implement standards for the prompt
16 investigation and processing of claims. This claim occurred on 7/20/03 and Respondent received
17 notice of this claim on 7/21/03. Respondent was advised by the insured that another vehicle was
18 involved in this accident but apparently, the insured did not have any information about the other
19 driver or vehicle involved. Respondent was contacted by the claimant on 8/9/03 and the claimant
20 provided Respondent with their name and address at that time. Respondent did not conduct a
21 scene investigation, did not inspect the claimant's vehicle for damages and did not promptly take
22 any statement from the driver of the claimant's vehicle. The 9/15/03 log notes reflect that a
23 supervisor from Respondent wrote to the claim representative to 'follow-up on investigation.
24 Claim is a month and a half old and no contact was made with the claimant driver'. Also, no
25 letters were sent to the claimant regarding the status of the investigation of this claim. The
26 claimant has now filed a suit against the insured due to the delay in handling of this claim.
27
28

1 Because Respondent did not promptly investigate and process the claimant's claim, a violation of
2 this section has occurred.

3
4 Section 2695.5(e)(2) requires an insurer to immediately , but in no more than 15 calendar days
5 upon receiving notice of claim, provide to the claimant necessary forms, instructions and
6 reasonable assistance, including but not limited to, specifying the information the claimant must
7 provide for proof of claim. Respondent received the claimant's information regarding this claim
8 on 8/9/03. Any necessary forms, instructions and/or any reasonable assistance should have been
9 provided to the claimant by 8/24/03, but were not. Therefore, a violation of this section has
10 occurred.

11
12 On October 1, 2003, the Department notified Respondent of the above noted violation.

13
14 135. Regarding: ROBERTO BATRES CSB-5963146
15 Claim Number: 1002475661

16
17 On October 1, 2003, a complaint was filed against Respondent alleging undue delay in the
18 processing of a claim.

19 An investigation by the Department found Respondent to be in noncompliance with California
20 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
21 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
22 2695.5(b).

23
24 Section 2695.5(b) requires a licensee to respond to a claimant's letter that reasonably suggests
25 that a response is expected, within 15 calendar days after receipt of that communication. The
26 records indicate the claimant's attorney sent a letter dated June 19, 2003 and was received on
27 June 27, 2003 by Respondent. A response to this letter was due no later than July 12, 2003.

28 Records also indicate a follow-up letter dated July 29, 2003 was received on August 1, 2003 by

1 the insurance Respondent. A response to this letter was due no later than August 16, 2003. The
2 response was not sent until September 1, 2003. Therefore, two violations of this regulation have
3 occurred.

4
5 On November 19, 2003, the Department notified Respondent of the above noted violation.

6
7 136. Regarding: JILL THORNSBERRY CSB-5964194
8 Claim Number: 1003539039-1-4

9 On December 31, 2003, a complaint was filed against Respondent alleging that a vehicle had
10 been improperly repaired.

11
12 An investigation by the Department found Respondent to be in noncompliance with California
13 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
14 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
15 2695.7(b)(1).

16
17 Section 2695.7(b)(1) requires all claim denials to be in writing. It appears that the denial of the
18 hood refinishing was in the form of a telephone call to the claimant. Since this denial was not in
19 writing, a violation of this regulation has occurred.

20
21 On March 5, 2004, the Department notified Respondent of the above noted violation.

22
23 137. Regarding: JOSEFA VEGA CSB-5965313
24 Policy Number: 602483830
Claim Number: PB022914

25
26 On November 14, 2003, a complaint was filed against Respondent alleging undue delay in the
27 processing of a claim.

1 An investigation by the Department found Respondent to be in noncompliance with California
2 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
3 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
4 2695.7(b).

5
6 Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from “proof
7 of claim”. Here, by Respondent’s own admission, proof of claim was received by Respondent on
8 September 16, 2003. This claim was required to be accepted or denied, or notice sent per
9 2695.7(c)(1), no later than October 26, 2003. The claim was denied on November 20, 2003 as
10 evidenced by the letter addressed to the complainant. Therefore, a violation of this regulation has
11 occurred.

12
13 On January 9, 2004, the Department notified Respondent of the above noted violation.

14
15 138. Regarding: ROGER GRAGO CSB-5966272
16 Policy Number: 97-0141059969
17 Claim Number: 1002106242
18 Insured: NABIL BOTROS TADROS

19 On 10-14-03, a complaint was filed against Respondent alleging Respondent has unduly delayed
20 the handling of the above-captioned claim. The complainant also contends the settlement offer is
21 unfair.

22
23 An investigation by the Department found Respondent to be in noncompliance with California
24 Insurance Code Section 790.03(h)(3) as well as 790.03(h) and the Fair Claims Settlement
25 Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5),
26 specifically Section 2695.3(a).

27
28 California Insurance Section 790.03(h)(3) states that a licensee is not in compliance with this

1 statute if they fail to adopt and implement reasonable standards for the prompt investigation and
2 processing of claims arising under insurance policies. In this case, as evidenced by our review of
3 activity log notes and other documentation Respondent submitted to this Department, the initial
4 appraiser assigned to inspect the loss vehicle did not write an estimate. Instead, the appraiser
5 simply deemed the vehicle an obvious total loss. The vehicle, which remained at the
6 complainant's shop of choice, was later deemed repairable by Respondent, even though
7 Respondent had not written an estimate for repairs or solicited an estimate from the repair facility.
8 After the repair facility provided Respondent with their repair estimate, Respondent again deemed
9 the vehicle to be a total loss. It should be noted that it took Respondent over three months to make
10 a final determination regarding the vehicle's disposition. The undue delay in making a definitive
11 determination as to whether the loss vehicle was repairable or a total loss could have been
12 avoided had the initial appraiser written a complete estimate when the vehicle was first inspected.
13 Therefore, one violation of this statute has occurred.

14
15 Section 2695.3(a) states that claim files shall contain all documents, notes and work papers
16 (including copies of all correspondence) which reasonably pertain to each claim in such detail
17 that pertinent events and the dates of the events can be reconstructed and the licensee's actions
18 pertaining to the claim can be determined. In this case, according to a log note dated 2-27-03
19 contained in the claim file, a status letter was sent to the complainant's attorney on 2-27-03.
20 However, there is no copy of the correspondence in the file. As a result, it is apparent from this
21 one example that the claim file is not complete. Therefore, one violation of this regulation has
22 occurred.

23
24 On January 9, 2004, the Department notified Respondent of the above noted violation.

25
26 139. Regarding: CHRISTOPHER STEIN CSB-5966874
27 Claim Number: 1002474529

On 10-16-03, a complaint was filed against Respondent alleging a delay in processing the claim. An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(h).

Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days from acceptance of claim. Here, according to documents in the claim file, the car was confirmed a total loss on 02-19-03. Complete payment of the claim was required by 03-21-03 with payment being considered late on 03-22-03. However, Respondent did not issue any payments until 10-27-03. In the reevaluation to the complainant (10-29-03) Respondent acknowledged unduly delaying the processing of this claim. Therefore, one violation of this regulation has occurred.

On February 24, 2004, the Department notified Respondent of the above noted violation.

140. Regarding: JOSEPH DIAS CSB-5967966
Policy Number: 95-15390-46-71
Claim Number: FG140807
Insured: MARTIN CORTEZ

On October 31, 2003, a complaint was filed against Respondent alleging undue delay in the processing of a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections 2695.3(a), 2695.5(e)(1), 2695.5(e)(2) and 2695.5(e)(3).

Insurance Code Section 790.03(h)(3) requires insurers to adopt and implement standards for the

1 prompt investigation and processing of claims. The records submitted to this office indicate there
2 is no record of a claim on file for this complainant; however, the information provided by the
3 complainant to this Department indicates some communication had occurred between the
4 complainant and the insurer. The intervention of this Department prompted further investigation
5 upon which a denial letter was sent to the complainant on November 19, 2003. It also appears
6 that a claim has been denied with no investigation conducted. Therefore, a violation of this
7 insurance code has occurred.

8
9 Section 2695.3(a) requires the claim file to contain all documents. The claim file received by this
10 office appears to be incomplete. Therefore, a violation of this regulation has occurred.

11
12 Section 2695.5(e)(1), 2695.5(e)(2) and 2695.5(e)(3) require an insurer to (1) acknowledge the
13 claim (2) provide necessary claim forms and (3) begin the investigation no later than 15 calendar
14 days from 'notice of claim'. It appears that notice of claim was received by Respondent on July
15 31, 2001. Respondent was required to take action under these regulations no later than August
16 15, 2001. The required actions were never done. Therefore, one violation each has occurred for
17 the referenced regulations.

18
19 On January 29, 2004, the Department notified Respondent of the above noted violation.

20
21 141. Regarding: RUTH COLLIER CSB-5968321
22 Claim Number: 7092445

23
24 On December 1, 2003, a complaint was filed against Respondent alleging that a claim had been
25 improperly denied.

26
27 An investigation by the Department found Respondent to be in noncompliance with California
28 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations

(California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.3(a)

Section 2695.3(a) requires the claim files to contain all documents, notes and work papers. Here, the file provided did not include the log notes as well as other items. Therefore, a violation of this regulation has occurred.

On February 6, 2004, the Department notified Respondent of the above noted violation.

142. Regarding: DENNIS OTTO CSB-5969315

Claim Number: 1002447869
Insured: ANTONIO MEDRANO

On 11/5/03, a complaint was filed against Respondent alleging an unfair denial of a bodily injury claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections 2695.7 (b) (1), and 2695.7 (h).

Section 2695.7(b)(1) requires all claim denials to be in writing. The 2/20/03 denial of the bodily injury claim was not in writing. Therefore, a violation of this regulation has occurred

Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days from acceptance of claim. Here, the property damage claim was accepted on 3/27/03 as evidenced by a review of the claim file. Payment of this claim was required by 4/27/03. The claim was not paid until 11/21/03. Therefore, a violation of this regulation has occurred.

On December 3, 2003, the Department notified Respondent of the above noted violation.

143. Regarding: F. NELSON PETREY CSB-5970114
Policy Number: 0126985766
Claim Number: 1003851938
Insured: KATHY TURNER

On 11/5/03, a complaint was filed against Respondent alleging that Respondent denied this claim in error.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(b)(3).

Section 2695.7(b)(3) requires that when a claim has been denied or rejected, a statement must be provided to the claimant advising that he or she may have the matter reviewed by the Department of Insurance and shall include the address and the telephone number of the Department. Respondent sent a denial letter dated 10/9/03 to this claimant that did not provide this required information. Therefore, a violation of this section has occurred.

On November 20, 2003, the Department notified Respondent of the above noted violation.

144. Regarding: MELODY LONGTIN-COMPLAINANT CSB-5970310
Policy Number: 99 11234-88-10
Claim Number: 1003234737
Insured: D. FAY

On October 31, 2003, a complaint was filed against Respondent alleging failure to re-issue the claim check which was sent in error to the wrong payee.

1 An investigation by the Department found Respondent to be in noncompliance with California
2 Insurance Code Section 790.03(h)5.

3
4 Section 790.03(h)5 requires a licensee to effectuate prompt, fair and equitable settlements of
5 claims in which liability has become clear. In this case a new check should have been issued on
6 September 3, 2003 when Mark Seporovich was advised that the first check was sent to the wrong
7 payee. The check was not re-issued until the complainant requested the help of this Department.

8
9 On January 29, 2004, the Department notified Respondent of the above noted violation.

10
11 145. Regarding: RALLAND JACKSON CSB-5970706
12 Policy Number: 96 014988 96 81
13 Claim Number: 07 139406

14 On October 29, 2003, a complaint was filed against Respondent alleging undue delay in claim
15 processing.

16
17 An investigation by the Department found Respondent to be in noncompliance with California
18 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
19 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
20 2695.3(a), 2695.3(b)(1), 2695.3(b)(3), and 2695.5(a).

21
22 Section 2695.3(a) requires an insurer's file must contain all documents. Respondent failed to send
23 us a copy of the complete claim file, as we received claim file material produced only after our
24 Department opened an investigation regarding Respondent. Therefore, a violation of this
25 regulation has occurred.

26
27 Section 2695.3(b)(1) requires every licensee to maintain retrievable claim data. Respondent
28

1 advised it cannot locate this claim file and provide a copy to our department. Therefore, a
2 violation of this section has occurred.

3
4 Section 2695.3(b)(3) requires every licensee assist the Insurance Commissioner or his or her duly
5 appointed designees in the examination of the licensee's claim files by maintaining hard copy files
6 or maintain claim files that are accessible, legible and capable of duplication to hard copy; files
7 shall be maintained for the current year and the preceding four years. Respondent could not locate
8 the original claim file or claim information on the computer system. The only documentation that
9 was presented to our department was the supplemental claim information that was developed with
10 the past 60 days. Therefore, a violation of this section has occurred.

11
12 In reference to Section 2695.5(a), this Department sent a letter to Respondent on November 5,
13 2003 and a response was considered late on December 1, 2003. A response was received from
14 Respondent on November 14, 2003, but the response did not include the requested information.
15 We then sent a follow-up letter to Respondent dated December 2, 2003. This response was
16 considered late on December 28, 2003. A response was received from Respondent on December
17 8, 2003, but the response did not include all of the requested information. We then sent a follow-
18 up letter to Respondent dated December 30, 2003. This response was considered late on January
19 25, 2004. The response was not received in our office until January 8, 2004. The response stated
20 that the original claim file cannot be located. Therefore, two violations of this regulation have
21 occurred.

22 On January 8, 2004, the Department notified Respondent of the above noted violation.

23
24 146. Regarding: GEVORG PITINYAN CSB-5972381
25 Policy Number: 30 15918-11-55
26 Claim Number: 1003821203

27
28 On 11/11/03, a complaint was filed against Respondent alleging undue delay in processing.

1 An investigation by the Department found Respondent to be in noncompliance with California
2 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
3 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section,
4 2695.5(e)(3) and 2695.7(h).

5
6 Section 2695.5(e)(3) requires an insurer to immediately , but in no more than 15 calendar days
7 upon receiving notice of claim, begin any necessary investigation of the claim. The claim was
8 received on 9/24/03 and the inspection and estimate was not performed until 11/20/03. Therefore,
9 a violation of this regulation has occurred.

10
11 Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days
12 from acceptance of claim. Here, the claim was accepted on 11/18/03 as evidenced by the claim
13 file activity log notes. Payment of this claim was required by 12/18/03. The claim was not paid
14 until 12/20/2003. Therefore, a violation of this regulation has occurred.

15
16 On February 18, 2004, the Department notified Respondent of the above noted violation.

17
18 147. Regarding: BENEDICT ORJI CSB-5974909
19 Policy Number: 96-13729205
20 Claim Number: 1002865169

21 On 12/9/03, a complaint was filed against Respondent alleging that Respondent unduly delayed
22 the handling of this claim and that Respondent did not make a reasonable offer of settlement
23 regarding this claim.

24
25 An investigation by the Department found Respondent to be in noncompliance with California
26 Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations
27 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
28 2695.7(b)(1), 2695.7(c)(1), 2695.3(a) and 2695.5(a).

1
2 Section 790.03(h)(3) requires an insurer to adopt and implement standards for the prompt
3 investigation and processing of claims. The insured claimed that his vehicle was rear-ended by a
4 taxi cab and then, before the insured could get the information about the vehicle or the driver of
5 the taxi cab, the driver and the vehicle allegedly left the scene of the accident. Respondent took
6 four (4) photos of the damage to the insured's vehicle. Respondent claim representative noted that
7 there was a small scratch on the rear bumper of the insured's, vehicle but did not take any close
8 up photos of the scratch and did not comment if there was any paint of a different color near the
9 scratch, that could have indicated that the scratch was caused by another vehicle. Even though the
10 insured's vehicle apparently rear-ended several other vehicles and caused significant property
11 damage, Respondent did not hire an accident reconstruction specialist to assist in determining
12 how the collisions may have occurred and did not inspect the claimant's vehicle for damages,
13 before denying their claims. Respondent lost in arbitration proceedings and paid approximately
14 \$15,000 to the claimant's insurance carriers. Because the insurance Respondent did not perform
15 an adequate investigation on this claim before denying the claimant and the insured's claims, a
16 violation of this section has occurred.

17
18 Section 2695.7(b)(1) requires all claim denials to be in writing and provide a statement listing all
19 factual and legal basis for such rejection or denial, which is then in the insurer's knowledge.
20 Where an insurer's denial of a first party claim, in whole or in part, is based on a specific policy
21 provision, condition or exclusion, the written denial shall include reference thereto and provide an
22 explanation of the application of the provision, condition or exclusion to the claim. Respondent
23 received a letter dated 5/19/03 from the insured's attorney with a claim for damages. Respondent
24 verbally denied this claim on 6/5/03 to the insured's attorney. A written denial letter was due to
25 be sent to the insured or to the insured's attorney no later than 7/2/03. Because a denial letter was
26 not sent by that date, a violation of this section has occurred.

1 Section 2695.7(c)(1) requires every insurer to provide the claimant with written notice every 30
2 calendar days if more time is required than what is allotted in subsection 2695.7(b) to determine
3 whether a claim should be accepted or denied. The written notice shall specify any additional
4 information the insurer requires in order to make a determination and state any continuing reasons
5 for the insurer's inability to make a determination. Written notices were due, but were not sent by
6 8/1/03, 9/13/03, 10/13/03, 11/12/03 and 12/12/03. Therefore, five (5) violations of this section
7 have occurred.

8
9 Section 2695.3(a) states that every licensee's claim files shall be subject to examination by the
10 Commissioner or by his or her duly appointed designees. These files shall include all documents,
11 notes and work papers (including copies of all correspondence) which reasonably pertain to each
12 claim in such detail that pertinent events and the dates of the events can be reconstructed and the
13 licensee's actions regarding the handling of the claim can be determined. The claim file log notes
14 indicate that Respondent sent denial letters to the claimants for their claims. The claim file that
15 Respondent provided to this Department did not include a copy of any denial letters. Therefore, a
16 violation of this section has occurred.

17
18 Section 2695.5(a) requires a licensee, upon receiving any written or oral inquiry from the
19 Department of Insurance concerning a claim, to immediately, but in no event more than twenty-
20 one (21) calendar days of receipt of that inquiry, furnish the Department of Insurance with a
21 complete written response based on the facts as then known by licensee. A complete written
22 response addresses all issues raised by the Department of Insurance in its inquiry and includes
23 copies of any documentation and claim files requested. Our Department sent a letter to
24 Respondent on 12/9/03 which required that Respondent provide this Department with a brief
25 timeline of the major claim handling events for this claim. This information was required to be
26 provided to our Department 1/5/04, but was never provided. Therefore, a violation of this section
27 has occurred.

28

On January 30, 2004, the Department notified Respondent of the above noted violation.

148. Regarding: EARL MCQUEEN CSB-5975005
Policy Number: 96152386733
Claim Number: 1003242491
Insured: NGAU VO

On 11-18-03, a complaint was filed against Respondent alleging undue delay in the processing of the above-captioned claim, specifically with regard to loss-of-use compensation. The complainant also alleges the eventual settlement offer for loss of use was unfair.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03.(h)(1), as well as 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(b). In addition, Respondent has acted in noncompliance with California Civil Code Section 3333.

Section 790.03(h)(1) prohibits licensees from misrepresenting to claimants pertinent facts or insurance policy provisions relating to any coverage at issue. In this case, based upon our review of the claim file, Respondent failed to notify the third-party claimant/complainant that he had a duty to mitigate his losses. As a result, the position that loss-of-use compensation is not due to the complainant for the first 30 days following the date of loss (up until the date Respondent accepted liability) is unreasonable. As we understand it, the position is that the complainant was notified shortly after the claim was filed that he had a duty to mitigate his losses and that he could do so by filing a claim with his own carrier.

Although the log note of 6-27-03 documents a telephone conversation whereby the complainant was told he could file a claim with his own insurer to avoid further delay (as Respondent were awaiting the police report), there is no evidence that the complainant was told that if he chose not

1 to file a claim with his own carrier, and Respondent later accepted liability for his claim, he
2 would not be compensated for loss of use for all days leading up to the date Respondent accepted
3 liability. In short, the complainant was not advised of the implications of his decision to refrain
4 from filing a claim with his own carrier, nor was he actually told of his duty to mitigate his losses.
5 Respondent misrepresented pertinent facts regarding Respondent's position on his claim, which
6 had the effect of misleading the complainant about his options, and, ultimately, led to his
7 incurring more loss of use than was necessary (some of which Respondent has refused to
8 compensate him for). Therefore, one violation of this statute has occurred.

9
10 Section 2695.5(b) requires a licensee to provide a complete response to a claimant's
11 communication that reasonably suggests that a response is expected, within 15 calendar days after
12 receipt of that communication. In this case, a telephone log note in the file, dated 7-7-03,
13 documents a conversation between the complainant and a claims representative, whereby the
14 complainant requested compensation for 30 day's worth of loss of use. The log note states
15 'Advised I will notify the auto department and see if they can pay some loss of use.' There is no
16 evidence in the file, however, to support that Respondent got back to the complainant with the
17 decision on this matter within 15 days as required by this Section. Also, the complainant sent
18 Respondent correspondence, dated 9-9-03, whereby he again requests loss-of-use compensation,
19 this time requesting compensation from 6-4-03 through 8-6-03. Respondent have acknowledged
20 via the correspondence to this Department that Respondent failed to respond to the
21 correspondence within 15 days as required pursuant to this Section. Therefore, two violations of
22 this regulation have occurred.

23
24 California Civil Code Section 3333 provides that damages would be the amount which will
25 compensate for all the detriment proximately caused by the tortfeasor. In regard to this claim,
26 Respondent eventually agreed to pay 30 day's worth of loss of use at the rate of \$15 per day (a
27 total of \$450). It appears Respondent paid the daily rate of \$15, as the complainant did not rent a
28 replacement vehicle. Instead, the complainant reportedly used a relative's vehicle. However, as

1 we advised in previous correspondence, this Civil Code Section does not call for a replacement
2 vehicle to actually be rented in order for the complainant to receive compensation equivalent to
3 the cost of renting a replacement vehicle of a similar make and model. The file contains a log
4 note, dated 7-7-03, which indicates that a reasonable rental rate was deemed to be the 'Hertz Flat
5 Rate or \$39.99 per day.' Nonetheless, Respondent has refused to compensate the complainant for
6 loss of use at this rate, despite this office's advice that the payment was in noncompliance with
7 this Section. It is evident from the correspondence to this Department (dated 12-31-03), that
8 Respondent paid only \$15 per day for loss of use because the complainant did not rent a
9 replacement vehicle. Therefore, one violation of California Civil Code Section 3333 has occurred.

10
11 On January 6, 2004, the Department notified Respondent of the above noted violation.

12
13 149. Regarding: IRA KATZ (Attorney for the Claimant) CSB-5975530
14 Insured: Benjamin Miller
15 Claim Number: 1002565728-1-2

16
17 On November 26, 2003, a complaint was filed against Respondent alleging an undue delay in
18 processing the above-captioned claim.

19
20 An investigation by the Department found Respondent to be in noncompliance with California
21 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
22 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
23 2695.5(b), 2695.7(b), and 2695.7(c)(1).

24
25 Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably
26 suggests that a response is expected, within 15 calendar days after receipt of that communication.
27 The claimant sent a communication to Respondent on September 5, 2003. A response to this
28 communication was due no later than September 20, 2003. The response was not sent until

1 September 26, 2003. Therefore, a violation of this regulation did occur.

2
3 Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from 'proof
4 of claim'. Here, proof of claim was received by Respondent on July 25, 2003, in the form of
5 medical specials and a demand for settlement. This claim was required to be accepted or denied,
6 or notice sent in writing per 2695.7(c)(1), no later than September 3, 2003. The claim has still not
7 been accepted or denied as additional documentation is still being requested of the complainant.
8 As a result, a violation of this regulation did occur.

9
10 Section 2695.7(c)(1) requires an insurer to provide written notice to a claimant whenever the
11 insurer is unable to accept or deny the claim within the timeframe required in Section 2695.7(b).
12 In this case, proof of claim was received by Respondent on July 25, 2003 in the form of medical
13 specials and a demand for settlement. The claim was required to be accepted or denied (or notice
14 sent) by September 3, 2003. No notice was ever sent to the claimant until September 27, 2003.
15 Also, continuing notice was required every 30 calendar days. Here, the continuing notice was
16 required no later than October 28, 2003 and November 27, 2003, respectively. No continuing
17 notice was ever sent to the claimant until December 5, 2003. Therefore, two (2) violations of this
18 regulation occurred prior to the response being provided in relation to this complaint.

19
20 On February 27, 2004, the Department notified Respondent of the above noted violation.

21
22 150. Regarding: RICHARD ERLIEN CSB-5975652
23 Policy Number: 917883116
24 Claim Number: 2C 041506

25 On 11-24-03, a complaint was filed against Respondent alleging Respondent has failed to pay for
26 all loss-related damages with respect to the above-captioned claim.

27
28 An investigation by the Department found Respondent to be in noncompliance with California

Insurance Code Section 880.

In reference to the California Insurance Code Section 880, please see the attached Bulletin No. 69-7 which requires that each insurance Respondent do business in its own name. In this case, as confirmed by the correspondence to this Department dated 12-9-03, Respondent underwrote this coverage. Paul Eis also confirmed on 12-12-03 that Respondent underwrote this coverage. However, the policy declarations show Fire Insurance Exchange as the apparent underwriting carrier, with no mention that Respondent actually underwrote the coverage. Please see the attached copy of the policy declarations discussed above. Therefore, one violation of this statute has occurred.

On December 12, 2003, the Department notified Respondent of the above noted violation.

151. Regarding: HEATHER ROTHDEUTSCH CSB-5977502
Policy Number: 30-0160473695
Claim Number: 1001821146
Insured: Angelina Ybarra

On 12-1-03, a complaint was filed against Respondent alleging undue delay in processing a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(15).

Section 790.03(h)(15) prohibits misleading a claimant as to the applicable statute of limitations. In the 6-2-03 letter to the claimant Respondent advised that the statute for the bodily injury claim expires 8-8-03 (one year from the date of loss). Pursuant to SB 688 the statute of limitations is two years for all pending claims, effective 1/1/03. Therefore, a violation of this Insurance Code Section has occurred.

On February 23, 2004, the Department notified Respondent of the above noted violation.

152. Regarding: RICK ROSE CSB-5977797
Policy Number: 0156934646
Claim Number: 1003727230
Insured: ROCIO ROSALES

On 12/9/03, a complaint was filed against Respondent alleging that Respondent did not conduct an adequate investigation before denying this claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(3).

Section 790.03(h)(3) requires an insurer to adopt and implement standards for the prompt investigation and processing of claims. This claim occurred on 9/5/03 and Respondent received this claim on that same date. Respondent discussed this loss with the insured and with the claimant. The insured did not take any photos after the accident and moved her vehicle from the point of impact, after her vehicle and the claimant's vehicle collided. However, the claimant did not move his vehicle from the point of impact and took photos of the accident scene and the vehicles involved, very soon after the impact occurred. The claimant offered these photos to Respondent for the review, but per the claim log notes, it appeared that Respondent was uninterested in the claimant's photos. Respondent did not conduct a scene investigation (there were skid marks in the parking from the vehicles involved in this loss) and did not inspect damages on the insured's vehicle or the claimant's vehicle. The claimant then filed suit in Small Claims Court against the insured and was awarded a judgment in the amount of \$3500.00. It would appear that if Respondent had conducted a complete investigation, Respondent would have been better prepared to protect the insured's position, would have been able to correctly settle this claim sooner and this claim would not have to have been resolved by litigation. Therefore, a violation of this section has occurred.

On December 22, 2003, the Department notified Respondent of the above noted violation.

153. Regarding: MUKUL CHAND CSB-5978367
Policy Number: 95-16069-94-67

On January 23, 2004, a complaint was filed against Respondent alleging a claim was improperly denied.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(a).

In reference to Section 2695.5(a), this Department requested by telephone a copy of the underwriting file from the insurer on February 10, 2004 and a response was considered late on March 7, 2004. No response was ever received. We then sent a follow-up letter to Respondent dated March 8, 2004. The response was received in our office on March 17, 2004. Therefore a violation of this regulation has occurred.

On March 18, 2004, the Department notified Respondent of the above noted violation.

154. Regarding: THOMAS LEWELLYN, ESQ CSB-5978652
Claim Number: 1003028279
Insured: REBECCA GOOD

On 12/12/03, a complaint was filed against Respondent alleging that Respondent had not made a reasonable offer of settlement and had unduly delayed in the handling of this claim.

An investigation by the Department found Respondent to be in noncompliance with California

1 Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations
2 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
3 2695.7(h) and 2695.3(b)(2).

4
5 Section 790.03(h)(3) requires an insurer to adopt and implement standards for the prompt
6 investigation and processing of claims. This claim occurred on 4/27/03 and Respondent received
7 notice of the claimant's information on this claim on 5/14/03. On 5/16/03, Respondent received
8 notice that the claimant was represented by an attorney. Respondent contacted the claimant's
9 attorney by only by phone on 5/16/03, 6/3/03 and 8/5/03. The only status letter sent to the
10 claimant's attorney was dated 12/19/03, in response to his request for assistance that he sent to
11 our Department. Respondent received a demand letter from the claimant's attorney dated
12 10/20/03. However, Respondent did not record the date that it received that letter. Respondent did
13 not respond to the demand letter either verbally or in writing. Because Respondent did not
14 communicate consistently with the claimant's attorney in an effort to resolve this claim, a
15 violation of this section has occurred.

16
17 Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days
18 from acceptance of claim. Here, Respondent received the subrogation demand, including a
19 demand for the claimant's deductible, from the claimant's insurer, on 7/7/03. Respondent sent
20 payment to the claimant's insurer for the property damage portion of the claim on 8/5/03.
21 However, Respondent did not reimburse the claimant for his deductible until Respondent sent the
22 12/19/03 response letter to the claimant's attorney. The claimant's deductible was due to be
23 reimbursed no later than 8/6/03. Therefore, a violation of this section has occurred.

24
25 Section 2695.3(b)(2) requires every insurer to assist the Department of Insurance in the review of
26 claim files by recording in the file the date that the licensee received, date(s) the licensee
27 processed and date the licensee transmitted or mailed every material and relevant document in the
28 file. The date that Respondent received the 10/20/03 letter from the claimant's attorney, as well as

the date that Respondent received a copy of the claimant's medical records, was not documented in the claim file. Therefore, a violation of this section has occurred.

On January 2, 2004, the Department notified Respondent of the above noted violation.

155. Regarding: DALE BAUMBACH CSB-5980661
Claim Number: 1003906871

On December 22, 2003, a complaint was filed against Respondent alleging undue delay in processing of a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(h).

Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days from acceptance of claim. Here, the claim was accepted and payment could have been tendered on December 9, 2003 when Farmers secured the loan payoff amount from the bank. Payment of this claim was required by January 8, 2004. The claim was not paid until January 22, 2004.

Therefore, a violation of this regulation has occurred.

On March 5, 2004, the Department notified Respondent of the above noted violation.

156. Regarding: YOLANDA GIVENS CSB-5981465
Policy Number: 29-0140991224
Claim Number: 1003781979
Insured: GINA DAVIS

1 On 12-23-03 a complaint was filed against Respondent alleging undue delay in processing the
2 claim.

3
4 An investigation by the Department found Respondent to be in noncompliance with California
5 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
6 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically
7 Section 2695.7(c)(1), for failure to notify the claimant in writing every 30 calendar days when
8 additional time was required to process the claim. Proof of claim, the adjuster's estimate, was
9 received 9-23-03. The claim payment was processed 3-10-04. Letters explaining the delay were
10 sent to the claimant 9-30-03, 12-9-03 and 1-8-04. Additional letters should have been sent 10-30-
11 03 and 11-29-03. This constitutes two violations of 2695.7(c)(1).

12
13 On March 11, 2004, the Department notified Respondent of the above noted violation.

14
15 157. Regarding: ANNE LOUISE CLINTON CSB-5982810
16 Claim Number: S91401-59-91

17
18 On 1/6/04, a complaint was filed against Respondent alleging that Respondent entered into a
19 contractual agreement with a temporary housing and furniture rental Respondent without the
20 insured's knowledge or approval.

21 An investigation by the Department found Respondent to be in noncompliance with California
22 Insurance Code Section 880.

23
24 Insurance Code Section 880 requires every insurer to conduct its business in this state in its own
25 name (please see the attached copy for information regarding Section 880). Respondent sent a
26 letters to the insured dated 11/7/03 (copy attached) which did not identify the name of the
27 insurance Respondent that underwrote this policy of insurance (Respondent). Therefore, a
28 violation of this section has occurred.

On January 30, 2004, the Department notified Respondent of the above noted violation.

158. Regarding: JULIE VAN SICKLE CSB-5984237

Policy Number: 96-0152388280

Claim Number: 1004155497

Insured: ALLYN BONDAN

On 1-7-04, a complaint was filed against Respondent for improperly denying a portion of a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(5).

Section 790.03(h)(5) requires an insurer to effectuate prompt, fair and equitable settlement of a claim in which liability has become clear. Initially, this claim was partially denied on 12-16-03. After intervention by the Department, the claim was re-evaluated and it was determined the initial assessment of liability at fifty percent was incorrect as noted in the letter to the Department on 1-21-04. A new offer to pay ninety per cent of complainant's damages was extended and subsequently accepted by the complainant. Therefore, a violation of this section has occurred.

On February 19, 2004, the Department notified Respondent of the above noted violation.

159. Regarding: DONALD D. DOTY, M.D. CSB-5984663

Policy Number: 015064094

Claim Number: 2C-043033

On 1-30-04, a complaint was filed against Respondent alleging Respondent improperly denied the above-captioned claim.

An investigation by the Department found Respondent to be in noncompliance with California

Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(a).

In reference to Section 2695.5(a), this Department sent a letter to Fire Insurance Exchange on 2-9-04 and a complete response was considered late on 3-7-04. Upon receipt of the initial response, we learned that Respondent actually underwrote this coverage. However, we did not receive the complete response until 3-24-04, when we received a copy of the specimen policy as issued to the insured. Among the documentation we had requested via our correspondence of 2-9-04 was a copy of the specimen policy. Therefore, one violation of this regulation has occurred.

On March 24, 2004, the Department notified Respondent of the above noted violation.

160. Regarding: CHRISTIANO BOLLINI CSB-5987128
Policy Number: 90624-95-83
Claim Number: 1004054357

On 1/16/04, a complaint was filed against Respondent alleging unsatisfactory settlement offer and a partial denial of claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically CIC 790.03(h)5.

Section 790.03(h)(5) requires an insurer, in good faith, to effectuate prompt, fair, and an equitable settlement of claims in which liability has become reasonably clear. Respondent has a recorded statement from the insured in which the insured states that he never has used the claimed items in

1 a profession. He said that his interest in cooking is a business, however he stated that he does not
2 earn a living using these items nor does he earn any money at all using these items. The insured
3 further indicates that he does not have a job and his source of income is state disability.
4 Respondent has no evidence in the claim file indicating otherwise. The insured's use of the word
5 business does not match the Homeowners policy's definition of the word business. Therefore a
6 violation of this code has occurred.

7
8 On March 19, 2004, the Department notified Respondent of the above noted violation.

9
10 161. Regarding: YAN YING HUANG CSB-5987561
11 Policy Number: 0143758804
12 Claim Number: 1004222513

13 On 1-21-04, a complaint was filed against Respondent alleging Respondent failed to pay for all
14 loss-related automotive repair costs due to the belief that the labor rate charged by the body shop
15 chosen by the complainant was excessive.

16 An investigation by the Department found Respondent to be in noncompliance with California
17 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
18 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
19 2695.8(f)(1) and 2695.7(b)(1).
20

21 Per Section 2695.8(f)(1), if the claimant obtains an estimate for automobile repairs that exceeds
22 the amount of the written estimate prepared by the insurer, the insurer shall pay the difference
23 between the written estimate prepared by the licensee and the higher estimate prepared by the
24 repair shop of the insured's choice. As we explained to Respondent via our correspondence dated
25 2-9-04, it is the position of this Department that a licensee may not reasonably adjust the
26 claimant's higher estimate (as is otherwise permitted under Section 2695.8(f)(3) of these
27 regulations), based upon the argument that the prevailing auto body labor rate is lower than the
28

1 rate charged by the repair facility chosen by the claimant, unless the licensee has conducted an
2 auto body labor rate survey pursuant to Section 2698.91 of the California Code of Regulations.
3 Respondent advised this office via the correspondence of 2-4-04 that Respondent has not
4 conducted a labor rate survey. Therefore, one violation of this regulation, 2695.8(f)(1), has
5 occurred.

6
7 Section 2695.7(b)(1) states that where an insurer denies a first-party claim, in whole or in part, it
8 shall do so in writing and shall provide to the claimant a statement listing all bases for such
9 rejection of denial and the factual and legal bases for each reason given for such rejection or
10 denial which is then within the insurer's knowledge. In this case, Respondent partially denied the
11 complainant's claim, as Respondent refused to pay for repairs to his vehicle at the labor rate
12 charged by the repair shop of his choice. However, after Respondent initially declined to pay for
13 all claimed repair costs due to the disagreement regarding the labor rate charged, Respondent
14 failed to send the complainant a written denial letter pursuant to this regulation. Respondent later
15 provided the complainant with correspondence that could be considered a denial letter (the
16 reevaluation letter dated 2-4-04 in response to this complaint). Therefore, one violation of this
17 regulation has occurred.

18
19 On February 25, 2004, the Department notified Respondent of the above noted violation.
20

21 162. Regarding: MARIELA PEREZ CSB-5955680

22 Policy Number: 0159489586

23 Claim Number: 21162089

24 On September 4, 2003, a complaint was filed against Respondent alleging that Respondent had
25 not made a fair offer of settlement on the claim.

26
27 An investigation by the Department found Respondent to be in noncompliance with California
28 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations

(California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections 2695.7(b) and 2695.7(c)(1).

Section 2695.7(b) requires an insurer to accept or deny a claim no later than 40 days from 'proof of claim'. Here, proof of claim was received by Respondent on January 21, 2003, in the form of a cover letter sent via facsimile to the adjuster (Ginger Baker) which included a request to settle the injury claim and copies of all medical bills incurred as a result of the loss. This claim was required to be accepted or denied, or notice sent per 2695.7(c) (1), no later than March 3, 2003. The claim was not accepted until November 12, 2003, as evidenced by the letter to the Department of the same date. Therefore, a violation of this regulation has occurred.

Section 2695.7(c) (1) requires an insurer to provide notice to a claimant whenever the insurer is unable to accept or deny the claim within the timeframe required in Section 2695.7(b). In this case and as previously noted, proof of claim was received by Respondent on January 21, 2003. The claim was required to be accepted or denied (or notice sent) by March 3, 2003. No notice was ever sent to the claimant advising of the delay. Also, continuing notice was required every 30 calendar days after that until such time as a decision was made regarding liability of the claim. Here, the continuing notice was required no later than April 2nd, May 2nd, June 2nd, July 2nd, August 1st, September 1st, October 2nd, and November 3rd, 2003, respectively. No continuing notices were documented as ever being sent to the claimant. Therefore, eight (8) violations of this regulation did occur.

On July 13, 2004 the Department notified Respondent of the violations noted above.

163. Regarding: LACURTIS SUMLIN CSB-5957651
Claim Number: B9-228147

On 9/9/03, a complaint was filed against Respondent alleging claim-handling delays.

1 An investigation by the Department found Respondent to be in noncompliance with California
2 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
3 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
4 2695.5(a).

5
6 In reference to Section 2695.5(a), the Department sent a letter to Respondent on 2/23/04 and a
7 response was considered late on 3/20/04. The Department did not receive a response to this
8 letter. Therefore, a violation of this regulation has occurred.

9
10 On August 5, 2004 the Department notified Respondent of the violations noted above.

11
12 164. Regarding: STEWART TROY GISH CSB-5964407
13 Policy Number: 163718299
14 Claim Number: 1002751990

15 On 11/18/03, a complaint was filed against Respondent alleging undue delay in processing.

16
17 An investigation by the Department found Respondent to be in noncompliance with California
18 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
19 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
20 2695.7(c)(1).

21
22 Section 2695.7(c)(1) requires every insurer to provide the claimant with written notice every 30
23 calendar days if more time is required than what is allotted in subsection 2695.7(b) to determine
24 whether a claim should be accepted or denied.

25
26 The written notice shall specify any additional information the insurer requires in order to make a
27 determination and state any continuing reasons for the insurer's inability to make a determination.
28

1 If the determination cannot be made until some future event occurs, then the insurer shall comply
2 with this continuing notice requirement by advising the claimant of the situation and providing an
3 estimate as to when the determination can be made. Respondent sent a notice on 6/5/03 per
4 section 2695.7(c) (1) which did not provide an estimate as to when the determination would be
5 made. Written notices were due, but not sent by 7/5/03, 8/14/03, 10/11/03, 11/10/03, 12/10/03,
6 3/21/04, and 5/14/04. Therefore, seven (7) violations of this regulation have occurred.

7
8 On July 29, 2004 the Department notified Respondent of the violations noted above.

9
10 165. Regarding: MELANIE STEWART CSB-5971671
11 Claim Number: 95-0150091509
12 Insured: JOANN CARAMIHO

13 On 3/16/04, a complaint was filed against Respondent alleging an unfair partial denial of a
14 claim.

15
16 An investigation by the Department found Respondent to be in noncompliance with California
17 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
18 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
19 2695.5(b) and 2695.3(a).

20
21 Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably
22 suggests that a response is expected, immediately, but in no event more than 15 calendar days
23 after receipt of that communication. As per our review of copies of letters in the claim file,
24 claimants sent communications to Respondent on 10/15/03, 11/13/03, 12/10/03, and 1/15/04 (see
25 attached). As per our claim file review, no responses to these letters were ever sent. Therefore,
26 four (4) violations of this regulation have occurred.

27
28 Section 2695.3 (a) requires every licensee's claim files to contain all documents notes and work

1 papers (including copies of all correspondence) which reasonably pertain to each claim in such
2 detail that pertinent events can be reconstructed and the licensee's actions pertaining to the claim
3 can be determined. As per our file review, correspondence sent to Respondent was never date
4 stamped, nor always noted in the activities log. It was not possible, in reviewing the file, to
5 always determine when correspondence was received. Therefore, a violation of this regulation has
6 occurred.

7
8 On April 21, 2004 the Department notified Respondent of the violations noted above.

9
10 166. Regarding: JEFF BRINKMAN CSB-5976441
11 Insured: Cassie McDuffy
12 Claim Number: 1002016196-1-6

13 On December 3, 2003, a complaint was filed against Respondent alleging an undue delay in
14 processing the above-captioned injury claim.

15
16 An investigation by the Department found Respondent to be in noncompliance with California
17 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
18 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
19 2695.5(e)(2).

20 Section 2695.5(e) (2) requires an insurer to provide necessary claim forms no later than 15
21 calendar days from 'notice of claim'. Notice of the injury claim was received by Respondent on
22 October 2, 2002. Respondent was required to take action under this regulation no later than
23 October 17, 2002; however, the required action was not done until January 10, 2003. Therefore, a
24 violation of this regulation did occur.

25
26 On April 27, 2004 the Department notified Respondent of the violations noted above.

27
28 ///

167. Regarding: NICK ABDO CSB-5979476
Policy Number: 30 16416 94 40
Claim Number: 1003715205

On December 17, 2003, a complaint was filed against Respondent alleging an undue delay in processing, an improper total loss evaluation, and no reasonable offer of settlement had been made.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections 2695.5(a), 2695.5(b), 2695.7(h) and 2695.8(b).

In reference to Section 2695.5(a), the Department sent a letter to Respondent on December 17, 2003, which included a request for a complete copy of the claim file. We did receive a response on December 31, 2003, showing that Respondent was the correct named insurer and that a complete copy of the claim file was enclosed. However, it turned out to be an incomplete response due to the fact that there were no check copies to show the actual dates and amounts that were issued. In fact, there was even a discrepancy over these dates and amounts of payment later on as acknowledged in Mr. Wilfong's letter of January 14, 2004. As such, a violation of this regulation did occur.

Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably suggests that a response is expected, within 15 calendar days after receipt of that communication. The claimant sent a communication (via facsimile) to Respondent on October 1, 2003. A response to this communication was due no later than October 16, 2003. No response was found to have been sent until November 6, 2003, and therefore a violation of this regulation did occur.

Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days

1 from acceptance of claim. Here, the claim was accepted on September 26, 2003, as evidenced by
2 the claim file log note. Payment of this claim was required by October 27, 2003. The claim was
3 not paid until November 10th and November 17th, 2003, respectively. Therefore, a violation of
4 this regulation has occurred.

5
6 Section 2695.8(b) references the fact that when the Actual Cash Value is determined, it shall be
7 fully itemized and explained in writing for the claimant when comparable automobiles are
8 available or were available in the local market area in the last 90 days, the average cost of two or
9 more such comparable automobiles be provided. The settlement amount must include all
10 applicable taxes and one-time fees incident to transfer of evidence of ownership of a comparable
11 automobile. In this case negative baseline adjustments were taken without providing a proper
12 objective basis and a violation of this regulation did occur accordingly.

13
14 On July 28, 2004 the Department notified Respondent of the violations noted above.

15
16 168. Regarding: TIEN HWA CHANG CSB-5980111
17 Policy Number: 01574285470
18 Claim Number: 1004044329

19
20 On December 12, 2003, a complaint was filed against Respondent alleging Respondent failed to
21 pay for all loss-related automotive repair costs due to the belief that the labor rate charged by the
22 body shop chosen by the complainant was excessive.

23
24 An investigation by the Department found Respondent to be in noncompliance with California
25 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
26 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
27 2695.8(f)(1).
28

1 Per Section 2695.8(f)(1), if the claimant obtains an estimate for automobile repairs that exceeds
2 the amount of the written estimate prepared by the insurer, the insurer shall pay the difference
3 between the written estimate prepared by the licensee and the higher estimate prepared by the
4 repair shop of the insured's choice. As we explained to Respondent via our correspondence dated
5 2-9-04, it is the position of the Department that a licensee may not reasonably adjust the
6 claimant's higher estimate (as is otherwise permitted under Section 2695.8(f)(3) of these
7 regulations), based upon the argument that the prevailing auto body labor rate is lower than the
8 rate charged by the repair facility chosen by the claimant, unless the licensee has conducted an
9 auto body labor rate survey pursuant to Section 2698.91 of the California Code of Regulations.
10 Respondent has not advised this office that Respondent have not conducted a labor rate survey.
11 Therefore, one violation of Section 2695.8(f) (1) CCR has occurred.
12

13 On August 5, 2004 the Department notified Respondent of the violations noted above.
14

15 169. Regarding: WILLIAM ALIKIN CSB-5986573
16 Policy Number: 29-161127912
17 Claim Number: 1004069840
18 Insured: GENE MIN-JIAN LEE

19 On 1/16/04, a complaint was filed against Respondent alleging the claim was unfairly denied.
20 An investigation by the Department found Respondent to be in noncompliance with California
21 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
22 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
23 2695.7(b)(1).
24

25 Section 2695.7(b) (1) requires all claim denials to be in writing. The 12/2/03 denial was in the
26 form of a telephone call to the claimant on 12/2/03. Since this denial was not in writing, a
27 violation of this regulation has occurred.
28

1 On July 20, 2004 the Department notified Respondent of the violations noted above.

2
3
4 170. Regarding: SUSAN L. KLEIN CSB-5988705
5 Claim Number: 1004052841-1-1

6 On March 22, 2004, a complaint was filed against Respondent alleging an undue delay in
7 processing the above-captioned claim.

8
9 An investigation by the Department found Respondent to be in noncompliance with California
10 Insurance Code Section 790.03(h)(5) and the Fair Claims Settlement Practices Regulations
11 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
12 2695.5(b) and 2695.7(h).

13
14 CIC Section 790.03(h)(5) refers to an insurer not attempting in good faith to effectuate prompt,
15 fair, and equitable settlements of claims in which liability has become reasonably clear. The
16 insured/complainant vehicle was inspected on December 5, 2003, and then on December 10,
17 2003, the insured/complainant was notified that the vehicle was deemed to be a total loss. The
18 record shows that the lien holder was also informed of the vehicle's status at this same time.
19 However, no other documentation is present in the claim file to show that any action took place to
20 resolve the total loss until March 9, 2004. Therefore, a violation of this statute did occur.

21
22 Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably
23 suggests that a response is expected, within 15 calendar days after receipt of that communication.
24 The claim file included a copy of a communication sent to Respondent via e-mail by the insured/
25 complainant on March 25, 2004, invoking the appraisal clause on her policy. A response to this
26 communication was due no later than April 9, 2004, but no documentation was found in the file to
27 prove a response had been provided. As such, a violation of this regulation did occur.
28

1 Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days
2 from acceptance of claim. Here, an initial offer on the total loss was issued on December 20,
3 2003, and payment of the undisputed portion of the claim was required by January 19, 2004.
4 There is no record of any payment (undisputed or otherwise), being made on the claim until
5 March 9, 2004. Therefore, a violation of this regulation has occurred.

6
7 On July 20, 2004 the Department notified Respondent of the violations noted above.

8
9 171. Regarding: RAMSES SOLIS CSB-5989425
10 Policy Number: 95 148784269
11 Claim Number: H3-114777

12 On March 2, 2004, a complaint was filed against Respondent alleging repairs were not
13 satisfactorily completed.

14
15 An investigation by the Department found Respondent to be in noncompliance with California
16 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
17 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
18 2695.3(b)(1) and 2695.3(b)(3).

19
20 Sections 2695.3(b) (1) and 2695.3(b) (3) require a licensee to maintain retrievable claims data and
21 maintain records for the current year and the preceding four years. The Department was advised
22 the insurer was unable to locate the claims file. Therefore, one violation each of the referenced
23 regulations has occurred.

24
25 On May 4, 2004 the Department notified Respondent of the violations noted above.

26
27 172. Regarding: KATHLEEN ZIADEH CSB-5993627
28 Policy Number: 96-0161896534
Claim Number: 1004012207-1-1

Insured: JESSE GURROLA

On 2/6/04, a complaint was filed against Respondent alleging undue delay in processing, requiring the use of non-original manufacturer replacement parts that did not exist.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h), 790.03(h)(3), and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections 2695.3(b)(2), 2695.8(g), 2695.7(h), and 2632.13(e)(2).

Section 790.03(h) (3) requires an insurer to adopt and implement standards for the prompt investigation and processing of claims. Respondent would not accommodate the insured who requested to have this claim adjusted as a first party claim. Two adjusters at Respondent simply failed to communicate and share essential information. This led to the confusion and the lost or misplaced estimates which delayed this claim being resolved for 108 days after the liability decision had been made. Respondent's estimating system was flawed with incorrect data which also added to the delay of the resolution of this claim. Therefore, a violation of this regulation has occurred.

Section 2695.3(b)(2) requires every insurer to assist the Department in the review of claim files by recording in the file the date that the licensee received, date(s) the licensee processed and date the licensee transmitted or mailed every material and relevant document in the file. The date that Respondent received the estimates from Advance Tech Collision and Dibbles Collision was not documented in the claim file Respondent has provided. Therefore, a violation of this section has occurred.

Section 2695.8(g)(1) of the Fair Claims Practices Regulations requires an insurer not to require the use of non-original manufacture replacement crash parts unless the parts are at least equal to

1 the original manufacturer parts in terms of kind, quality, safety, fit and performance. Respondent
2 issued payment based upon Respondent's estimate that was in part based upon after market
3 replacement parts that did not even exist. Therefore, a violation of this section has occurred..

4
5 Section 2632.13(e) (2) requires the insurer to provide written notice to the insured of the
6 result of an investigation of an 'at fault' investigation. Respondent has not provided a copy of
7 any written notice to this insured advising of the result of the at fault investigation.

8
9 Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days
10 from acceptance of claim. Here, the claim was accepted on 11/13/03 as evidenced by the claim
11 file activity log notes and the 11/18/03 to the other insured party involved in this accident.
12 Payment of the undisputed amount of this claim was required by 12/13/03. The claim was not
13 paid until 1/20/04. Therefore, a violation of this regulation has occurred.

14
15 On April 15, 2004 the Department notified Respondent of the violations noted above.

16
17 173. Regarding: MANUEL MENDOZA CSB-5993896
18 Policy Number: 0162666930
19 Claim Number: 1004121645-1-5

20 On 2/27/04, a complaint was filed against Respondent alleging an improper at fault determination
21 and failure to respond to the complainant contacts.

22
23 An investigation by the Department found Respondent to be in noncompliance with California
24 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
25 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
26 2695.5(a).

1 Section 2695.5(a) requires a licensee, upon receiving any written or oral inquiry from the
2 Department concerning a claim, to immediately, but in no event more than twenty-one (21)
3 calendar days of receipt of that inquiry, furnish the Department with a complete written response
4 based on the facts as then known by licensee. A complete written response addresses all issues
5 raised by the Department in its inquiry and includes copies of any documentation and claim files
6 requested. The Department sent a letter to Respondent dated 3/9/04 requesting complete
7 responses regarding the status of this claim and a copy of the complete claim file. The written
8 response and copy of the claim file provided to The Department on 3/29/04 fails to include any
9 documentation of payment history for repairs or rental reimbursement. Therefore, a violation of
10 this regulation has occurred.

11
12 On April 28, 2004 the Department notified Respondent of the violations noted above.

13
14 174. Regarding: LEROY DODGE CSB-5996494
15 Policy Number: 95 13191-98-33
16 Claim Number: 1004328383

17
18 On 3-9-04 a complaint was filed against Respondent alleging undue delay and an unfair
19 settlement offer on the claim.

20 An investigation by the Department found Respondent to be in noncompliance with California
21 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
22 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically
23 Section 2695.5(e)(1) for failure to acknowledge the claim within 15 calendar days of receiving
24 notice of claim, 2695.5(e)(3), for failure to begin an investigation within 15 days of receiving
25 notice of claim, and 2695.7(b), for failure to accept or deny liability or send a letter explaining the
26 delay within 40 days of receiving proof of claim.

27
28 Notice of claim was received 1-14-04. The claim should have been acknowledged by 1-29-04.

1 The claim was not acknowledged until 2-17-04. This constitutes one violation of 2695.5(e)(1).

2
3 After receiving notice of claim on 1-14-04 an investigation should have been initiated by
4 1-29-04. The investigation was not initiated until 2-17-04. This constitutes one violation of
5 2695.5(e) (3).

6
7 Proof of claim, medical bills from the veterinary hospital, was received 1-15-04. The claim was
8 accepted and a settlement offer provided 3-2-04. The claim should have been accepted or denied
9 or a letter explaining the delay sent to the insured by 2-25-04. This constitutes one violation of
10 2695.7(b).

11
12 On April 15, 2004 the Department notified Respondent of the violations noted above.

13
14 175. Regarding: MIRWAIS AZADZOY CSB-5996889
15 Policy Number: 29-16410-66-41
16 Claim Number: 1003725814

17 On March 22, 2004, a complaint was filed against Respondent alleging a claim was improperly
18 denied.

19
20 An investigation by the Department found Respondent to be in noncompliance with California
21 Insurance Code Section 790.03(h) (15).

22
23 Insurance Code Section 790.03(h) (15) requires insurers to notify the claimant of the proper
24 statute of limitations. Records indicate the insurer's March 19, 2004 letter advised the claimant
25 the statute of limitations for bodily injury is one year. However, at the time of loss, the statute of
26 limitations for bodily injury was two years. Therefore, a violation of this statute has occurred.

27 On June 1, 2004 the Department notified Respondent of the violations noted above.
28

76. Regarding: SULLY-MILLER CONTRACTING CO. CSB-5999155
Claim Number: 162734984
Insured: IN JOONG YOON

On March 10, 2004, a complaint was filed against Respondent alleging undue delay in processing of a claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections 2695.5(b), 2695.5(e)(1), 2695.5(e)(2) and 2695.5(e)(3).

Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably suggests that a response is expected, immediately, but in no event more than 15 calendar days after receipt of that communication. The claimant sent communications to Respondent on October 18, 2003, January 13, 2004 and February 16, 2004. Responses to these communications were due no later than November 15, 2003, January 28, 2004 and March 2, 2004, respectively. The responses were either late or no response was sent at all. Therefore, three violations of this regulation have occurred.

Section 2695.5(e) (1) requires an insurer to acknowledge the claim within 15 days of receipt. Here, the claim was reported to Respondent on July 28, 2003. Respondent was required to take action under this regulation no later than August 13, 2003. The required action of acknowledgement of claim was not completed until October 2, 2003. Therefore, a violation of this regulation has occurred.

///

///

1 Section 2695.5(e) (2) requires an insurer to provide necessary claim forms within 15 days of
2 receipt of claim. Respondent was required to take action under this regulation no later than
3 August 13, 2003. The required action was not completed until October 2, 2003. Therefore, a
4 violation of this regulation has occurred.

5
6 Section 2695.5(e) (3) requires an insurer to begin the investigation no later than 15 days
7 from notice of claim". Respondent was required to take action under this regulation no later than
8 August 13, 2003. The required action was not completed until October 2, 2003. Therefore, a
9 violation of this regulation has occurred.

10
11 On May 5, 2004 the Department notified Respondent of the violations noted above.

12
13 177. Regarding: VASIL GEORGIEV CSB-6001510
14 Policy Number: 96-0153812766
15 Claim Number: 1003162396
16 Insured: ANDREW CUTT

17 On April 20, 2004, a complaint was filed against Respondent alleging a claim was improperly
18 denied.

19
20 An investigation by the Department found Respondent to be in noncompliance with California
21 Insurance Code Section 790.03(h) (15).

22
23 Insurance Code Section 790.03(h) (15) requires a licensee to provide the applicable statute of
24 limitations. The records indicate in a letter dated September 30, 2003, the complainant was
25 advised the statute of limitations for bodily injury was one year. However, the statute of
26 limitations for bodily injury at the time of the accident was two years. Therefore, a violation of
27 this statute has occurred.

On May 27, 2004 the Department notified Respondent of the violations noted above.

178. Regarding: DAVID TYNI CSB-6002712

Policy Number: 96140930874

Claim Number: 1004194892

On 3-25-04, a complaint was filed against Respondent alleging undue delay in processing of medical claims.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(b) and 2695.7(h).

Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably suggests that a response is expected within 15 calendar days after receipt of that communication. Respondent received a letter dated 12-22-03 from the insured's attorney on 12-26-03 and no response was ever sent. Therefore, a violation of this section has occurred.

Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days from acceptance of claim. Here, the bill from Petaluma Physical Therapy was received on 2-2-04 as evidenced by documentation in claims file. Payment of this bill was required by 3-1-04. The bill was not paid until 4-8-04. In addition, the bill from Janine Ball, CMT was received on 3-4-04. Payment of this bill was required by 4-3-04. This bill was not paid until 4-15-04 as evidenced by the claim file log notes. Therefore, two violations of this section have occurred.

On May 12, 2004 the Department notified Respondent of the violations noted above.

///

1 179. Regarding: SUZANNE YBARRA CSB-6002731
2 Policy Number: 30-0157424326
3 Claim Number: 1004128972-1-1
4 The insured: IGOR OSKSKOGAN

5 On 3/29/04, a complaint was filed against Respondent alleging Respondent did not complete an
6 adequate investigation before denying this claim.

7
8 An investigation by the Department found Respondent to be in noncompliance with California
9 Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations
10 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
11 2695.5(a) and 2695.5(b).

12
13 Section 790.03(h) (3) requires an insurer to adopt and implement reasonable standards for the
14 prompt investigation and processing of claims. This claim occurred on 11/30/03 and was reported
15 to Respondent on 12/1/03. Shortly after Respondent received notice of this claim, Respondent
16 was provided with the names and phone numbers of two independent witnesses to this accident.
17 On 12/9/03, the claim representative called each of the witnesses for the first time and left a
18 message on each of their answering machines, asking them to call her back. On 12/10/03, the
19 claim representative called the driver of the claimant's vehicle and asked for him to give a
20 recorded statement. He said he could not. The reason he could not was because he leaving his
21 house to go to work. However, the claim representative did not attempt to contact the claimant
22 again to obtain a recorded statement and did not make any other attempts to contact the
23 independent witnesses, before denying liability for this claim, in the 12/11/03 letter that was sent
24 to the claimant. It was only after the Department was contacted by the claimant, that Respondent
25 made additional efforts to contact the independent witnesses in order to properly determine
26 liability. When the investigation was completed, the insured was determined to be negligent.
27 Although this claim was promptly denied, this claim was not thoroughly investigated before it
28 was denied. Therefore, a violation of this section has occurred.

1 Section 2695.5(a) requires a licensee, upon receiving any written or oral inquiry from the
2 Department concerning a claim, to immediately, but in no event more than twenty-one (21)
3 calendar days of receipt of that inquiry, furnish the Department with a complete written response
4 based on the facts as then known by the licensee. A complete written response addresses all issues
5 raised by the Department in its inquiry and includes copies of any documentation and claim files
6 requested. The Department sent an inquiry letter to Respondent dated 3/29/04 which requested a
7 complete response as well as a copy of the complete claim file. The copy of the complete claim
8 file was due to be received in the Department no later than 4/25/04. However, the copy of the
9 claim file that Respondent provided was not complete. The copy of the claim file that Respondent
10 provided did not contain the following items: a copy of the transcribed verbal loss statement that
11 was taken from the insured, a copy of the written response from Respondent to the 1/31/04
12 subrogation demand letter from the claimant's insurer, a copy of the photos of the damage to the
13 insured's vehicle and a copy of the repair estimate for the insured's vehicle. Therefore, a violation
14 of this section has occurred.

15
16 Section 2695.5(b) requires a licensee, upon receiving any communication from a claimant,
17 regarding a claim, which reasonably suggests that a response is expected shall immediately, but in
18 no event more than 15 calendar days after receipt of the communication, furnish the claimant with
19 a complete response based on the facts as then known by the licensee. The driver of the
20 claimant's vehicle sent correspondence to Respondent dated 12/16/03 and 12/23/03, received by
21 Respondent on 12/16/03 and 12/23/03, respectively, which reasonably suggested that a complete
22 response was required. A complete response was required from Respondent but was not made, by
23 12/31/03 and 1/17/04, respectively. Therefore, two violations of this section have occurred.

24
25 On June 24, 2004 the Department notified Respondent of the violations noted above.

26
27 180. Regarding: MARY STRAUB CSB-6006935
28 Policy Number: 29-15193-46-20
Claim Number: 1004245367

On April 9, 2004, a complaint was filed against Respondent alleging undue delay in processing of claim and improper denial of claim for reimbursement of car rental expenses.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) (5).

Respondent confirmed that the payment for car rental expenses up to a \$1,000 limit was paid on July 28, 2004. As evidenced in the file notes, Respondent received a car rental bill in an unknown amount from Enterprise on January 6, 2004. Therefore, one violation of this statute has occurred.

On August 3, 2004 the Department notified Respondent of the violations noted above.

181. Regarding: LACEY REDD CSB-6007364
Policy Number: 96-0158074981
Claim Number: 1004553649-1-1
Insured: AARON GRAY

On 4-16-04 a complaint was filed against Respondent alleging the claim was unfairly denied and undue delay in having the claim processed.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) (3), for failing to adopt and implement standards for the prompt investigation and processing of claims, and the Fair Claims Settlement Practices Regulations (California Code of Regulations), specifically 2695.7(b) (1), for failing to deny claims in writing.

The claimant notified Respondent of the claim 3-4-04. Contact letters were sent 3-9, 3-11 and 3-12-04. On 3-17-04 a liability decision was reached, assessing 15% liability to the claimant.

Respondent was aware of the fact that the claimant only had liability insurance. No effort was made to inspect the vehicle or settle the claim until 5-7-04, after intervention by the Department. In fact, the first letter to the Department did not even address the issue of repairs. This constitutes one violation of 790.03(h)(3).

Although a liability decision was reached 3-17-04, the partial denial of the claim was not communicated in writing. This constitutes one violation of 2695.7(b)(1).

On May 17, 2004 the Department notified Respondent of the violations noted above.

182. Regarding: VIVIAN HUEY CSB-6008292
Policy Number: 14806-31-49
Claim Number: 1004177645
Insured: ROBERT CRISTOBAL

On 4-19-04, a complaint was filed against Respondent alleging Respondent failed to pay for all loss-related repair costs charged by complainant's body shop of choice.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(1), as well as 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.8(f)(1).

Section 790.03(h)(1) prohibits licensees from misrepresenting to claimants pertinent facts or insurance policy provisions relating to any coverage at issue. In this case, Respondent has refused to pay for the entire cost of repairs as determined by the complainant's body shop of choice, Unique Auto Body ("Unique"). Part of the disparity between Respondent's estimated cost of repairs and the estimate prepared by Unique is due to a difference in labor rates (Unique charges higher labor rates than allowed for by Respondent). In the letter to the complainant dated 2-3-04,

Respondent stated "the labor rates charged by Unique Auto Body are higher than the predominant rates charged by other shops in the same geographical area and Respondent will be responsible for any labor rate difference(s) charged by Unique." However, Respondent has failed to provide the Department with a labor rate survey to support the assertion that the rates charged by Unique are higher than the prevailing rates in the same geographic area. Without such a survey, Respondent lacked sufficient evidence to advise the complainant via the letter of 2-3-04 that her shop of choice was charging excessive labor rates. Therefore, one violation of this statute has occurred.

Per Section 2695.8(f)(1), if the claimant obtains an estimate for automobile repairs that exceeds the amount of the written estimate prepared by the insurer, the insurer shall pay the difference between the written estimate prepared by the licensee and the higher estimate prepared by the repair shop of the insured's choice. As we explained to Respondent via our correspondence dated 5-5-04, it is the position of the Department that a licensee may not reasonably adjust the claimant's higher estimate (as is otherwise permitted under Section 2695.8(f)(3) of these regulations), based upon the argument that the prevailing auto body labor rate is lower than the rate charged by the repair facility chosen by the claimant, unless the licensee has conducted an auto body labor rate survey pursuant to Section 2698.91 of the California Code of Regulations. After reviewing the correspondence to this office dated 5-18-04, however, it is clear that Respondent have not conducted a labor rate survey. As a result, Respondent should have paid for repairs to the complainant's vehicle at the higher labor rate charged by Unique Auto Body pursuant to this regulation, but Respondent has refused to do so. Therefore, one violation of this regulation, 2695.8(f) (1), has occurred.

On June23, 2004 the Department notified Respondent of the violations noted above.

183. Regarding: FRANK TWYMAN CSB-6008714
Policy Number: 1004542066
Insured: JUAN MANUEL MEJIA

1 On 5/10/04, a complaint was filed against Respondent alleging undue delay in processing.

2
3 An investigation by the Department found Respondent to be in noncompliance with California
4 Insurance Code Sections 790.03(h), 790.03(h)(3), and the Fair Claims Settlement Practices
5 Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically
6 Sections 2695.5(e)(1), 2695.5(e)(2), 2695.5(e)(3).

7
8 Section 790.03(h) (3) requires an insurer to adopt and implement standards for the prompt
9 investigation and processing of claims. Respondent received notice of claim on 3/2/04 by
10 telephone call from the complainant's insurer. There is no record of Respondent's representative
11 requesting any contact information from the other insurer. Respondent never contacted the other
12 insurer to obtain claimant contact information or to have the claimant contact Respondent.
13 Respondent closed this claim on 3/22/04. Therefore, a violation of this regulation has occurred.

14
15 Section 2695.5(e) (1) requires an insurer too immediately, but in no more than 15 days from
16 receipt of the claim, acknowledge receipt of the claim to the claimant. A reply was due by 3/17/04
17 and no contact of the claimant was made until 4/16/04. Therefore, a violation of this section has
18 occurred.

19
20 Section 2695.5(e)(2) requires an insurer to immediately , but in no more than 15 calendar days
21 upon receiving notice of claim, provide to the claimant necessary forms, instructions and
22 reasonable assistance, including but not limited to, specifying the information the claimant must
23 provide for proof of claim. The claimant was not contacted to provide a statement until 4/21/04.
24 The claimant was never asked to provide a copy of an estimate or repair bills or any other proof
25 of claim. Therefore, a violation of this regulation has occurred.

26 Section 2695.5(e)(3) requires an insurer to immediately , but in no more than 15 calendar days
27 upon receiving notice of claim, begin any necessary investigation of the claim. The claim was
28 received on 3/2/04. Respondent has never inspected the vehicle. Respondent did not inquire if

there were any witnesses or a police report until 4/21/04. Therefore, a violation of this section has occurred.

On June 23, 2004 the Department notified Respondent of the violations noted above.

184. Regarding: RICHARD CHAND CSB-6011462
Policy Number: 148334350
Claim Number: N2 117616

On 5/3/04, a complaint was filed against Respondent alleging that Respondent has improperly attempted to recover payment from the complainant via subrogation and collection-agency efforts.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections 2695.3(a) and 2695.5(a).

Section 2695.3(a) states that claim files shall contain all documents, notes and work papers (including copies of all correspondence) which reasonably pertain to each claim in such detail that pertinent events and the dates of the events can be reconstructed and the licensee's actions pertaining to the claim can be determined. In this case, we requested from Respondent a complete copy of the claim file. Respondent has provided us with documentation from the claim file, but it is evident that we have not been provided with a complete copy of all claim-file documentation (for example, as pertaining to the medical-payments claim). Correspondence from Paul Eis, Customer Relations Consultant, dated 6/7/04 and 6/22/04, respectively, has confirmed that Respondent is unable to locate and provide this office with a complete copy of the claim file. Therefore, one violation of this regulation has occurred.

1 In reference to Section 2695.5(a), the Department sent a letter to Respondent on 5/24/04 and a
2 complete response was considered late on 6/20/04. Via our letter of 5/24/04, we requested that
3 Respondent provide us with a complete copy of the claim file. As discussed above, the claim-file
4 copy Respondent provided to us is not complete. Therefore, one violation of this regulation has
5 occurred.

6
7 On June 24, 2004 the Department notified Respondent of the violations noted above.

8
9 185. Regarding: CRAIG OVERLOCK CSB-6013008
10 Policy Number: 0145654225
11 Claim Number: 1004766293
12 Insured: BARRY BENJAMIN

13 On 5-13-04 a complaint was filed against Respondent alleging the claim was unfairly denied
14

15 An investigation by the Department found Respondent to be in noncompliance with California
16 Insurance Code Section 790.03(h) (5) for failing to effectuate prompt, fair and equitable
17 settlement of claims when liability was reasonably clear. Following intervention by the
18 Department the file was reviewed again and the claim denial reversed. All of the information was
19 already in the file. This constitutes one violation of 790.03(h) (5).

20
21 On June 17, 2004 the Department notified Respondent of the violations noted above.

22
23 186. Regarding: JAMES ROGERS, ESQ. CSB-6014775
24 Policy Number: 60189-66-62
25 Claim Number: 1002576841
26 Insured: CHONG'S PRODUCE INC.

27 On 5/18/04, a complaint was filed against Respondent alleging that Respondent did not respond
28 to this attorney's letters in which he advised Respondent that he had a lien on any payments

Respondent made to the claimant on this claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(b).

Section 2695.5(b) requires a licensee, upon receiving any communication from a claimant, regarding a claim, which reasonably suggests that a response is expected, shall immediately, but in no event more than 15 calendar days after receipt of the communication, furnish the claimant with a complete response based on the facts as then known by the licensee. Respondent did not respond to the 8/13/03 letter that this complainant sent to Respondent, received on 8/25/03 by Respondent, which reasonably suggested that a response was required. A complete response to acknowledge the receipt and the request made in the 8/13/03 letter was due to made immediately, but not later than 9/9/03. Because Respondent did not provide a complete response to the 8/13/03 letter from this complainant, a violation of this section has occurred.

On June 3, 2004 the Department notified Respondent of the violations noted above.

187. Regarding: DAVID A. BARLOW CSB-6015176
Policy Number: 99-0160461647
Claim Number: 1004747556-1-1

On 5/17/04, a complaint was filed against Respondent alleging unfair denial of claim.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.5(a).

1 In reference to Section 2695.5(a), the Department sent a letter to Respondent on 5/19/04 and a
2 response was considered late on 6/14/04. The response was not received in our office until
3 7/9/04. Therefore, a violation of this regulation has occurred.

4
5 On July 12, 2004 the Department notified Respondent of the violations noted above.

6
7 188. Regarding: KEITH VAN STRATTEN CSB-6015830
8 Policy Number: 0131101013
9 Claim Number: 1003935777

10 On 5-19-04, a complaint was filed against Respondent alleging undue delay in the processing of
11 the above-captioned claim.

12
13 An investigation by the Department found Respondent to be in noncompliance with California
14 Insurance Code Section 790.03(h) and the Fair Claims Settlement Practices Regulations
15 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section
16 2695.5(b).

17
18 Section 2695.5(b) requires a licensee to provide a complete response to a claimant's
19 communication that reasonably suggests that a response is expected, within 15 calendar days after
20 receipt of that communication. In this case, Respondent acknowledged via the reevaluation letter
21 to the complainant dated 6-3-04 that Respondent failed to return two telephone calls from the
22 complainant. Specifically, log notes show that the complainant called Respondent on 1-13-04 and
23 1-20-04. However, as Respondent acknowledged, there is no evidence to support that the
24 complainant's calls were returned within the timeframe required pursuant to this Section, nor is
25 there evidence to show that the complainant was provided with a complete response via
26 correspondence within the required timeframe. Therefore, two violations of this regulation have
27 occurred.
28

On June 7, 2004 the Department notified Respondent of the violations noted above.

189. Regarding: MARIO FLORES CSB-6015856
Claim Number: 1004323223
Insured: SOPHIA CHOI

On 5/26/04, a complaint was filed against Respondent alleging that Respondent unduly delayed the handling of this claim and that Respondent initially settled this claim with claimant, sent the claimant a settlement draft but then, stopped payment on the draft, without advising the claimant that Respondent had done so.

An investigation by the Department found Respondent to be in noncompliance with California Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Section 2695.7(c)(1).

Section 790.03(h) (3) requires an insurer to adopt and implement standards for the prompt investigation and processing of claims. This claim occurred on 1/10/04 and the insured reported this claim to Respondent on 1/13/04. Respondent contacted the claimant's attorney on 1/26/04 and Respondent took the claimant's recorded statement on 1/27/04. Respondent sent only two letters (dated 1/20/04 and 2/12/04) to the insured's attorney advising that Respondent needed to take the insured's recorded statement. Although Respondent inspected and obtained a repair estimate on the insured's vehicle on 1/15/04, for unknown reasons, Respondent did not inspect and estimate the claimant's damages until 3/17/04. Then, Respondent settled this loss with the claimant's attorney on 4/20/04 and sent a settlement draft on 4/26/04 for the claimant's damages. A separate person at Respondent then realized that the insured's statement had not been taken yet and liability had not been determined so it was decided to issue a 'stop payment' on the check that was sent for the claimant's damages, without first letting the claimant or the claimant's attorney know about Respondent's error. Respondent did not obtain the insured's statement until

1 5/12/04. Respondent next decided to deny liability for the claimant's damages and sent a denial
2 letter on 5/13/04. Because Respondent did not investigate and handle this claim promptly and
3 correctly, a violation of this section has occurred.

4
5 Section 2695.7(c)(1) requires every insurer to provide the claimant with written notice every 30
6 calendar days if more time is required than what is allotted in subsection 2695.7(b) to determine
7 whether a claim should be accepted or denied. The written notice shall specify any additional
8 information the insurer requires in order to make a determination and state any continuing reasons
9 for the insurer's inability to make a determination. Written notices were due to be sent to the
10 insured or to the insured's legal representative by 3/11/04 and 4/10/04, but were not. Therefore,
11 two (2) violations of this section have occurred.

12
13 On June 10, 2004 the Department notified Respondent of the violations noted above.

14
15 190. Regarding: WESTMONT COLLEGE CSB-6016812
16 Insured: TAE SUNG KIM
17 Claim Number: 1002673175

18
19 On May 25, 2004, a complaint was filed against Respondent alleging an undue delay in
20 processing a check for the full amount of the claim.

21
22 An investigation by the Department found Respondent to be in noncompliance with California
23 Insurance Code Section 790.03(h)(3) and the Fair Claims Settlement Practices Regulations
24 (California Code of Regulations, Title 10, Chapter 5, Subchapter 7.5), specifically Sections
25 2695.5(b) and 2695.7(h).

26
27 CIC Section 790.03(h) (3) is designated as failing to adopt and implement reasonable standards
28 for the prompt investigation and processing of claims arising under insurance policies. In

1 reviewing the file documentation presented, there appears to be a period of time between May 23,
2 2003 and January 6, 2004, where nothing is recorded after the original offer was made and
3 therefore a violation of this statute has occurred.

4
5 Section 2695.5(b) requires a licensee to respond to a claimant's communication that reasonably
6 suggests that a response is expected, within 15 calendar days after receipt of that communication.
7 The claimant sent communications to Respondent on January 30th, March 3rd, and April 2nd,
8 2004. Responses to these communications were due no later than February 23rd, March 29th,
9 and April 21st, 2004 respectively. It was finally acknowledged in the written response to the
10 complaint filed through the Department that no responses were ever sent as required, and
11 therefore three (3) violations of this regulation did occur.

12
13 Section 2695.7(h) requires an insurer to tender payment of claims no later than 30 calendar days
14 from acceptance of claim. Here, the claim was accepted on May 9, 2003, as evidenced by the
15 response to the complaint; however, no payment was issued (not even the undisputed amount),
16 until January 6, 2004. Payment of this claim was required by June 10, 2003, and as such, a
17 violation of this regulation has occurred.

18
19 On July 20, 2004 the Department notified Respondent of the violations noted above.

20
21 191. Regarding: GREGORY ALDAPE CSB-6022202
22 Policy Number: 913532310
23 Claim Number: 2C-040166

24 On 6/17/04, a complaint was filed against Respondent alleging Respondent issued insufficient
25 payment for additional living expenses, among other claims-handling allegations.

26
27 An investigation by the Department found Respondent to be in noncompliance with California
28 Insurance Code Sections 880, 2071 and 2083.

1 In reference to the California Insurance Code Section 880, please see the attached Bulletin No.
2 69-7 which requires that each insurance company do business in its own name. In this case,
3 Respondent underwrote this coverage. This was confirmed via the correspondence to the
4 Department dated 6/29/04. However, with respect to this claim, Respondent sent seven (7) letters
5 and/or other forms of correspondence that failed to clearly identify the name of the correct
6 underwriting carrier. The correspondence in question was dated 10/30/03, 11/6/03, 11/8/03 (two
7 on this date), 11/10/03, 11/21/03 and 5/1/04. Specifically, all the correspondence shows Fire
8 Insurance Exchange as the apparent underwriting carrier, although Respondent actually
9 underwrote the coverage. Therefore, seven violations of this statute have occurred.

10
11 Section 2071 of the California Insurance Code outlines the adopted standard form of fire
12 insurance for the state of California. Specifically, Section 2071 provides the mandated policy
13 provisions and verbiage to be used in all fire insurance policies issued in California. As an
14 example, one provision is entitled 'Adjusters.' This provision mandates the required actions on
15 the part of licensees when three or more primary adjusters have been assigned to a claim. This is
16 just one of many provisions that are required to be included in fire insurance policy forms.
17 However, our review of the specimen policy Respondent provided has revealed that this provision
18 is not shown in the policy. Therefore, one violation of this statute has occurred.

19
20 Section 2083 of the California Insurance Code states that it is a misdemeanor for any insurer or
21 any agent to countersign or issue a fire policy covering in whole or in part property in California
22 and varying from the California standard form. As discussed above, our review of the specimen
23 policy Respondent provided to us has revealed that it is lacking required provisions/verbiage,
24 such as the "Adjusters" provision. Therefore, one violation of this statute has occurred.

25
26 On July 1, 2004 the Department notified Respondent of the violations noted above.
27
28